



MATTHEWALE Miles Capit
Justic. de Banco Regis And 167
For W. Shrowshery at The sign of The Bible, in Duck Lane & John
© 1711 Wm. Smith At the sign of the host in Duck Lane

T. Atley.

THE
Life and Death
OF
Sir MATTHEW HALE, K^t.
SOMETIME
LORD CHIEF JUSTICE
OF
His Majesties Court
OF
KINGS BENCH.

Written by
GILBERT BURNETT, D.D.

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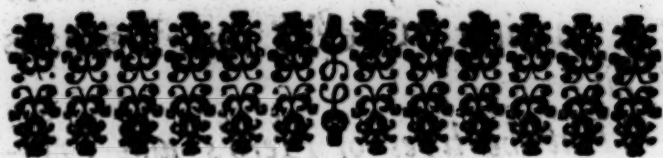
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THE PREFACE.

NO part of History is more instructive and delighting, than the Lives of great and worthy Men : The shortness of them invites many Readers, and there are such little and yet remarkable passages in them, too inconsiderable to be put in a general History of the Age in which they lived ; that all people are very desirous to know them. This makes Plutarch's Lives be more generally

The Preface.

Read than any of all the Books which the ancient Greeks or Romans Writ.

But the lives of Hero's and Princes, are commonly filled with the account of the great things done by them, which do rather belong to a general, than a particular History; and do rather amuse the Reader's fancy with a splendid shew of greatness, than offer him what is really so useful to himself; And indeed the Lives of Princes are either Writ with so much flattery, by those who intended to merit by it at their own hands, or others concerned in them: Or with so much spite, by those who being ill used by them, have revenged themselves on their Memory, that there is not much to be built on them: And though the ill nature of many makes what is Satyrically Writ to be generally more read and be-

The Preface.

believed, than when the flattery is visible and course, yet certainly Resentment may make the Writer corrupt the truth of History, as much as Interest: And since all Men have their blind sides, and commit Errors, he that will industriously lay these together, leaving out, or but slightly touching what should be set against them, to ballance them, may make a very good Man appear in very bad Colours: So upon the whole matter, there is not that reason to expect either much truth, or great instruction, from what is written concerning Hero's or Princes; for few have been able to imitate the patterns Suetonius set the World in writing the Lives of the Roman Emperours, with the same freedom that they had led them: But the Lives of private Men, though they seldom entertain the Reader with such a variety of

The Preface.

passages as the other do ; Yet certainly they offer him things that are more imitable, and do present Wisdom and Virtue to him, not only in a fair Idea, which is often look't on as a piece of the Invention or Fancy of the Writer, but in such plain and familiar instances, as do both direct him better, and persuade him more ; And there are not such temptations to bias those who writ them, so that we may generally depend more on the truth of such relations as are given in them.

In the age in which we live, Religion and Virtue have been proposed and defended with such advantages, with that great force of reason, and those perswasions, that they can hardly be matched in former times ; yet after all this, there are but few much wrought on by them, which perhaps flows from this, among other reasons,

The Preface.

reasons, that there are not so many excellent Patterns set out, as might both in a shorter, and more effectual manner recommend that to the World, which discourses do but coldly; The Wit and stile of the Writer being more considered than the argument which they handle, and therefore the proposing *Virtue* and *Religion* in such a Model, may perhaps operate more than the perspective of it can do; and for the *History of Learning*, nothing does so preserve and improve it, as the writing the *Lives* of those who have been eminent in it.

There is no Book the ancients have left us, which might have informed us more than *Diogenes Laertius* his *Lives of the Philosophers*; if he had had the art of writing equal to that great Subject which he undertook, for if he had given the World such an account of them,

The Preface.

them, as Gassendus has done of Peiresk, how great a stock of knowledge might we have had, which by his unskilfulness is in a great measure lost; Since we must now depend only on him, because we have no other, or better Author, that has written on that Argument.

*For many Ages there were no Lives writ but by Monks, through whose writings there runs such an incurable humour, of telling incredible and inimitable passages, that little in them can be believed or proposed as a pattern: Sulpitius Severus and Jerom shewed too much credulity in the Lives they writ, and raised Martin and Hilarion, beyond what can be reasonably believed: after them, Socrates, Theodoret, Sozomen, and Palladius, took a pleasure to tell uncouth stories of the Monks of Thebais; and Nitria:
and*

The Preface.

and those who came after them, scorned to fall short of them, but raised their Saints above those of former Ages, so that one would have thought that undecent way of writing could rise no higher; and this humour infected even those who had otherwise a good sense of things, and a just apprehension of Mankind, as may appear in Matthew Paris, who though he was a Writer of great Judgment and fidelity, yet he has corrupted his History with much of that Alloy: But when emulation and envy rose among the several Orders or Houses, then they improved in that art of making Romances, instead of writing Lives, to that pitch, that the World became generally much scandalized with them: The Franciscans and Dominicans tried who could say the most extravagant things of the Founders, or other Saints of their

The Preface.

their Orders, and the Benedictines; who thought themselves possessors of the belief of the World, as well as of its wealth, endeavoured all that was possible still to keep up the dignity of their Order, by outlying the others all they could; and whereas here or there, a Miracle, a Vision, or Trance, might have occurred in the Lives of former Saints; now every page was full of those wonderfull things.

Nor has the humour of writing in such a manner, been quite laid down in this Age, though more awakened and better enlightened, as appears in the Life of Philip Nerrius, and a great many more: And the Jesuits at Antwerp, are now taking care to load the World with a vast and voluminous Collection of all those Lives that has already swelled to eleven Volumes in Folio, in a small Print, and yet being digested

The Preface.

gested according to the Kalender, they have yet but ended the Month of April: The Life of Monsieur Renty is writ in another manner, where there are so many excellent passages, that he is justly to be reckoned amongst the greatest patterns that France has afforded in this age.

But while some have nourished Infidelity, and a scorn of all sacred things, by writing of those good Men in such a strain, as makes not only what is so related to be disbelieved, but creates a distrust of the authentical writings of our most holy faith; others have fallen into another extream in writing Lives too jejune, swelling them up with trifling accounts of the Childhood and Education, and the domestick or private affairs of those persons of whom they Write, in which the World is little concerned:

The Preface.

cerned; by these they become so flat, that few care to read them, for certainly those Transactions are onely fit to be delivered to Posterity, that may carry with them some useful preece of knowledge to after-times.

I have now an Argument before me, which will afford indeed only a short History, but will contain in it as great a Character, as perhaps can be given of any in this age; since there are few instances of more knowledge and greater virtues meeting in one person. I am upon one account (beside many more) unfit to undertake it, because I was not at all known to him, so I can say nothing from my own Observation, but upon second thoughts I do not know whether this may not qualify me to write more impartially, though perhaps more defectively, for the knowledge of extraordinary persons
does

The Preface.

does most commonly bias those, who were much wrought on by the tenderness of their friendship, for them, to raise their Stile a little too high when they write concerning them: I confess I knew him as much as the looking often upon him could amount to. The last year of his being in London, he came always on Sundays, (when he could go abroad) to the Chappel of the Rolls, where I then Preached: In my life I never saw so much Gravity tempered with that sweetness, and set off with so much vivacity as appeared in his looks, and behaviour, which disposed me to a veneration for him, which I never had for any, with whom I was not acquainted: I was seeking an opportunity of being admitted to his Conversation; but I understood that between a great want of health, and a multiplicity of business, which his Employment

The Preface.

brought upon him, he was Master of so little of his time, that I stood in doubt whether I might presume to rob him of any of it, and so he left the Town, before I could resolve on desiring to be known to him.

My ignorance of the Law of England, made me also unfit to Write of a Man, a great part of whose Character as to his Learning is to be taken from his skill in the Common Law, and his performance in that. But I shall leave that to those of the same Robe: Since if I engaged much in it, I must needs commit many errors, Writing of a Subject that is foreign to me.

The occasion of my undertaking this, was given me first by the earnest desires of some that have great power over me, who having been much obliged by him, and
bolding

The Preface.

holding his Memory in high estimation, thought I might do it some right by Writing his Life; I was then engaged in the History of the Reformation, so I promised that, as soon as that was over, I should make the best use I could of such Informations and Memorials as should be brought me.

This I have now performed in the best manner I could, and have brought into method all the parcels of his Life, or the branches of his Character, which I could either gather from the Informations that were brought me, or from those that were familiarly acquainted with him, or from his Writings: I have not applied any of the false Colours with which Art, or some forced Eloquence might furnish me in Writing concerning him; but have endeavoured to set him out in the same
b simpli-

The Preface.

Simplicity in which he lived: I have said little of his Domestick Concerns, since though in these he was a great Example, yet it signifies nothing to the World, to know any particular exercises, that might be given to his Patience; and therefore I shall draw a Vail over all these, and shall avoid saying any thing of him, but what may afford the Reader some profitable Instruction: I am under no temptations of saying any thing, but what I am perswaded is exactly true, for where there is so much excellent truth to be told, it were an inexcusable fault to corrupt that, or prejudice the Reader against it by the mixture of falsehoods with it.

*In short as he was a great example while he lived, so I wish
the*

The Preface.

the setting him thus out to Posterity, in his own true and native Colours, may have its due influence, on all persons; but more particularly on those of that profession, whom it more immediately Concerns, whether on the Bench or at the Barr.

PERMIT ME to say a few words to the Reader, in relation to the following Treatise. It is a Collection of the most useful and interesting Cases, which have been decided in the Court of King's Bench, since the Year 1760. It is intended to be a Supplement to the Reports of the Yearly Reports, and to be a Guide to the Student, in the Study of the Law.

THE

The Reader is desired to correct the Book
by the following *Errata*, before he reads
it over, especially the first fault, pag. 15. l.
9. that being the most considerable.

PAg. 15. l. 9. read *indiscreet Men called Obsti-*
nacy. pag. 39. l. 8. for *r. but.* pag. 44. l. ult.
so highly so r. so highly so. pag. 50. l. 3. after
County r. of. pag. 101. l. 8. *assignatas salurem,*
r. assignatus salutem. pag. 147. l. 10. *was r. were.*
pag. 168. l. 20. eternal r. external. pag. 172.
l. 17. dearlier, r. earlier. pag. 200. l. 15. *foresta,*
r. foresta.

I

THE
LIFE & DEATH
OF

Sir MATTHEW HALE, K^t.

L A T E

Lord Chief Justice of *England*.

MATTHEW HALE, was
Born at *Alderly* in *Glocester-*
shire, the first of *November*,
1609. His Grandfather was *Ro-*
bert Hale, an Eminent Clothier in
Wotton-under-edge, in that County,
where he and his Ancestors had
lived for many Descents; and
they had given several parcels of
Land for the use of the Poor,
B which

2 *The Life and Death of*

which are enjoyed by them to this day. This *Robert* acquired an Estate of ten Thousand Pound, which he divided almost equally amongst his five Sons; besides the Portions he gave his Daughters, from whom a numerous Posterity has sprung. His Second Son was *Robert Hale*, a Barrister of *Lincolns-Inn*; he Married *Joan*, the Daughter of *Matthew Poyntz*, of *Alderly* Esquire, who was descended from that Noble Family of the *Poyntz's* of *Acton*: Of this Marriage there was no other Issue but this one Son. His Grandfather by his Mother was his Godfather, and gave him his own Name at his Baptism. His Father was a Man of that strictness of Conscience, that he gave over the practise of the Law, because he could not understand the

Sir Matthew Hale. 3

the reason of giving Colour in Pleadings, which as he thought was to tell a Lye, and that, with some other things commonly practised, seemed to him contrary to that exactness of Truth and Justice which became a Christian, so that he withdrew himself from the *Inns* of Court to live on his Estate in the Country. Of this I was informed by an Ancient Gentleman, that lived in a friendship with his Son for fifty Years, and he heard Judge Jones, that was Mr. *Hales* Contemporary, declare this in the *Kings-Bench*. But as the care he had to save his Soul, made him abandon a Profession in which he might have raised his Family much higher, so his Charity to his poor Neighbours, made him not only deal his Alms largely among them

4 *The Life and Death of*
while he lived, but at his Death
he left (out of his small Estate
which was but 100 l a Year) 20 l.
a Year to the Poor of *Wotton*,
which his Son confirmed to them
with some Addition, and with
this Regulation, that it should be
distributed among such poor
House-keepers, as did not Receive
the Alms of the Parish; for to give
it to those, was only as he used to
say, to save so much Money to the
Rich, who by Law were bound to
relieve the poor of the Parish.

Thus he was descended rather
from a good, than a Noble Fa-
mily, and yet what was wanting
in the insignificant Titles of High
Birth, and Noble Blood, was
more than made up in the true
worth of his Ancestors. But he
was soon deprived of the Happi-
ness of his Fathers Care and In-
struction,

Sir Matthew Hale. 5

struction, for as he lost his Mother before he was three years old, so his Father died before he was five; so early was he cast on the Providence of God. But that unhappiness was in a great measure made up to him: For after some opposition made by Mr. *Thomas Poyntz*, his Uncle by his Mother, he was committed to the care of *Anthony Kingscot*, of *Kingscot* Esquire, who was his next Kinsman, after his Uncles, by his Mother.

Great care was taken of his Education, and his Guardian intended to breed him to be a Divine, and being inclined to the way of those then called Puritans, put him to some Schools that were Taught by those of that party, and in the 17th. year of his Age, sent him to *Magdalen-Hall* in *Oxford*, where *Obadiah Sedgwick*

6 *The Life and Death of*

was his Tutor. He was an extraordinary Proficient at School, and for some time at *Oxford*. But the Stage Players coming thither, he was so much corrupted by seeing many Playes, that he almost wholly forsook his Studies. By this he not only lost much time, but found that his Head came to be thereby filled with such vain Images of things, that they were at best Improfitable, if not hurtful to him; and being afterwards sensible of the Mischief of this, he resolved upon his coming to *London*, (where he knew the opportunities of such Sights would be more frequent and Inviting) never to see a Play again, to which he constantly adhered.

The Corruption of a Young Man's mind in one particular, generally draws on a great many
more

Sir Matthew Hale. 7

more after it, so he being now taken off from following his Studies, and from the Gravity of his deportment, that was formerly Eminent in him, far beyond his Years, set himself to many of the vanities incident to Youth, but still preserved his Purity, and a great probity of Mind. He loved fine Clothes, and delighted much in Company: and being of a strong robust Body, he was a great Master at all those Exercises that required much Strength. He also learned to Fence, and handle his Weapons, in which he became so expert, that he worsted many of the Masters of those Arts: but as he was exercising himself in them, an Instance appeared, that shewed a good Judgment, and gave some hopes of better things. One of his Masters told him he could

8 *The Life and Death of*

teach him no more, for he was now better at his own Trade than himself was. This Mr. *Hale* lookt on as flattery; so to make the Master discover himself, he promised him the House he lived in, for he was his Tenant, if he could hit him a blow on the Head: and bad him do his best, for he would be as good as his word: so after a little Engagement, his Master being really Superiour to him, hit him on the Head, and he performed his promise; for he gave him the House freely: and was not unwilling at that rate to learn so early, to distinguish flattery from plain and simple truth.

He was now so taken up with Martial matters, that instead of going on in his design of being a Scholar, or a Divine, he resolved to be a Souldier: and his Tu-

tor

Sir Matthew Hale. 9

tor *Sedgwick* going into the *Low-Countries*, Chaplain to the Renowned Lord *Vere*, he resolved to go along with him, and to trail a Pike in the Prince of *Orange's* Army; but a happy stop was put to this Resolution, which might have proved so fatal to himself, and have deprived the Age of the great Example he gave, and the useful Services he afterwards did his Country. He was engaged in a Suite of Law with Sir *William Whitmore*, who laid claim to some part of his Estate, and his Guardian being a Man of a retired temper, and not made for Business, he was forced to leave the *University*, after he had been three Years in it, and goe to *London* to sollicite his own business. Being recommended to Serjeant *Glanvill* for his Councillor, and he observing in him a clear apprehension

10 *The Life and Death of*
sion of things, and a solid Judge-
ment, and a great fitness for the stu-
dy of the Law, took pains upon
him to perswade him to forsake his
thoughts of being a Souldier, and
to apply himself to the study of
the Law: and this had so good
an effect on him, that on the 8th.
of November, 1629. when he
was past the 20th. Year of his Age,
he was admitted into *Lincolns-Inn*:
and being then deeply sensible
how much time he had lost, and
that Idle and Vain things had o-
ver-run and almost corrupted his
mind, he resolved to Redeem the
time he had lost, and followed
his Studies with a diligence that
could scarce be beleived, if the
signal effects of it did not gain it
Credit. He Studied for many
years at the rate of 16 Hours a
day: he threw aside all fine
Clothes,

Sir Matthew Hale. 11

Clothes, and betook himself to a plain fashion, which he continued to use in many points to his dying day.

But since the honour of reclaiming him from the idleness of his former course of Life, is due to the memory of that Eminent Lawyer Serj. *Glanvil*, and since my Design in Writing is to propose a Pattern of Heroick Virtue to the World, I shall mention one passage of the Serjeant which ought never to be forgotten. His Father had a fair Estate, which he intended to settle on his Elder Brother, but he being a Vicious young Man, and there appearing no hopes of his Recovery, he settled it on him, that was his Second Son. Upon his Death, his Eldest Son finding that what he had before looked on, as the threatnings of an angry Father, was

12 *The Life and Death of*

was now but too certain, became Melancholly, and that by degrees wrought so great a change on him, that what his Father could not prevail in while he Lived, was now effected by the severity of his last Will, so that it was now too late for him to change in hopes of an Estate that was gone from him. But his Brother observing the reality of the change, resolved within himself what to do : so he called him, with many of his Friends together to a Feast, and after other Dishes had been served up to the Dinner, he ordered one that was covered to be set before his Brother, and desired him to uncover it; which he doing, the Company was surprized to find it full of Writings. So he told them that he was now to do, what he was sure his Father would have

3877

Sir Matthew Hale. 13

have done, if he had lived to see that happy Change, which they now all saw in his Brother: and therefore he freely restored to him the whole Estate. This is so great an instance of a Generous and just Disposition, that I hope the Reader will easily pardon this Digression, and that the rather since that Worthy Serjeant was so Instrumental in the happy Change that followed in the course of Mr. *Hale's* Life.

Yet he did not at first break off from keeping too much Company with some vain People, till a sad Accident drove him from it, for he with some other young Students, being invited to be merry out of Town, one of the Company called for so much Wine, that notwithstanding all that Mr. *Hale* could do to prevent it, he
went

14 *The Life and Death of*

went on in his Excess till he fell down as dead before them, so that all that were present, were not a little affrighted at it, who did what they could to bring him to himself again: This did particularly affect Mr. *Hale*, who thereupon went into another Room, and shutting the door, fell on his Knees, and prayed earnestly to God, both for his Friend, that he might be restored to Life again; and that himself might be forgiven for giving such Countenance to so much Excess: and he vowed to God, that he would never again keep Company in that manner, nor drink a health while he lived: His Friend recovered, and he most Religiously observed his Vow, till his Dying day. And though he was afterwards prest to drink Healths, particularly

Sir Matthew Hale. 15

ticularly the *Kings*, which was set up by too many as a distinguishing mark of Loyalty, and drew many into great Excess after his *Majesties* happy Restoration; but he would never dispense with his Vow, though he was sometimes roughly treated for this, which some hot and indiscreet *men call-*
led Obstinacy.

This wrought an entire change on him: now he forsook all vain Company, and divided himself between the Duties of Religion, and the Studies of his Profession; in the former he was so regular, that for Six and thirty years time, he never once failed going to Church on the Lords day; this observation he made when an Ague first interrupted that constant Course, and he reflected on it, as an Acknowledgement of God's
great

16 *The Life and Death of*
great Goodness to him, in so long
a Continuance of his health.

He took a strict account of his
time, of which the Reader will
best Judge, by the Scheme he
drew for a Diary which I shall in-
sert Copied from the Original,
but I am not certain when he
made it; it is set down in the
same Simplicity in which he wrote
it for his own private use.

MORNING.

- I. To lift up the heart to God in
thankfulness for renewing my
Life.
- II. To renew my Covenant with
God in Christ. 1. By renewed
Acts of Faith receiving Christ,
and rejoyceing in the height of
that Relation. 2. Resolution
of

U

Sir Matthew Hale. 17

*of being one of his People doing him
Allegiance.*

III. *Adoration and Prayer.*

IV. *Setting a Watch over my own
Infirmities and Passions, over the
Snares laid in our way. Perimus
licitis.*

Day Imployment.

There must be an Imployment,
two kinds.

I. *Our ordinary calling, to serve God
in it. It is a Service to Christ
though never so mean. Colos. 3.
Here Faithfulness, Diligence,
Chearfulness. Not to overlay my
self with more Business than I can
bear.*

II. *Our Spiritual Imployments :
Mingle somewhat of Gods Immedi-
ate Service in this day.*

C

Re-

18 *The Life and Death of Refreshments.*

- I. Meat and Drink, Moderation seasoned with somewhat of God.
- II. Recreations. 1. Not our Business. 2. Sutable. No Games, if given to Covetousness or Passion.

If alone.

- I. Beware of wandring vain lustful thoughts, fly from thy self rather than entertain these.
- II. Let thy Solitary thoughts be profitable, view the Evidences of thy Salvation, the state of thy Soul, the coming of Christ, thy own Mortality, it will make thee humble and Watchful.

Company.

Do good to them. Use God's name reverently. Beware of leaving an ill Impression of ill Example. Receive good from them, if more knowing.

EVE-

EVENING.

*Cast up the Accompts of the Day. If
ought amiss, Beg pardon. Gather
resolution of more Vigilance. If
well, Bless the Mercy and Grace
of God that hath Supported thee.*

These Notes have an Imperfection in the Wording of them, which shews they were only intended for his Privacies. No wonder a Man who set such rules to himself, became quickly very Eminent and remarkable.

Noy the Attorney General, being then one of the greatest Men of the Profession, took early notice of him, and called often for him, and directed him in his Study, and grew to have such
C 2 friend.

20 *The Life and Death of*
friendship for him, that he came
to be called *young Noy*. He pas-
sing from the extream of Vanity
in his Apparel, to that of neg-
lecting himself too much, was
once taken when there was a Press
for the *Kings-Service*, as a fit Per-
son for it; for he was a strong
and well built Man: But some
that knew him coming by, and
giving notice who he was, the
Press-Men let him go. This made
him return to more decency in his
Clothes, but never to any Super-
fluity or Vanity in them.

Once as he was Buying some
Cloath for a new Suit, the Draper
with whom he differed about the
Price, told him he should have
it for nothing, if he would pro-
mise him an Hundred pound when
he came to be Lord Chief Justice
of *England*; to which he answered,
That

Sir Matthew Hale. 21

That he could not with a good Conscience wear any Man's Cloath, unless he payed for it; so he satisfied the Draper, and carried away the Cloath. Yet that same Draper lived to see him advanced to that same dignity.

While he was thus improving himself in the Study of the Law, he not only kept the Hours of the *Hall* constantly in *Term-time*, but seldom put himself out of Commons in *Vacation-time*, and continued then to follow his Studies with an unwearied diligence; and not being satisfied with the Books writ about it, or to take things upon trust, was very diligent in searching all Records: Then did he make divers Collections out of the Books he had Read, and mixing them with his own Observations, digested them into a

22 *The Life and Death of*
Common-place Book ; which he
did with so much Industry and
Judgment, that an Eminent Judge
of the *Kings-Bench*, borrowed it
of him when he was Lord Chief
Baron : He unwillingly lent it, be-
cause it had been Writ by him be-
fore he was called to the *Barr*, and
had never been thoroughly revised
by him since that Time , only
what Alterations had been made
in the Law by subsequent Sta-
tutes, and Judgments, were added
by him as they had happened :
but the Judge having perused it
said, that though it was Com-
posed by him so early, he did not
think any Lawyer in *England*
could do it better, except he him-
self would again set about it.

He was soon found out by that
great and learned Antiquary Mr.
Selden, who though much superiour
to

Sir Matthew Hale. 23

to him in Years, yet came to have such a liking of him, and of Mr. *Vaughan*, who was afterwards Lord Chief Justice of the *Common-Pleas*, that as he continued in a close friendship with them while he lived, so he left them at his Death, two of his four Executors.

It was this Acquaintance that first set Mr. *Hale* on a more enlarged pursuit of Learning, which he had before confined to his own Profession, but becoming as great a Master in it, as ever any was, very soon; he who could never let any of his time go away unprofitably, found leisure to attain to as great a variety of knowledge, in as Comprehensive a manner as most Men have done in any Age.

He set himself much to the Study

24 *The Life and Death of*
dy of the *Romane* Law, and though
he liked the way of Judicature
in *England* by Juries, much better
than that of the *Civil* Law, where
so much was trusted to the Judge ;
yet he often said, that the true
Grounds and Reasons of Law
were so well delivered in the
Digests, that a man could never
understand Law as a Science so
well as by seeking it there, and
therefore lamented much that it
was so little Studied in *Eng-*
land.

He looked on readines in *A-*
rithmetick, as a thing which might
be useful to him in his own Im-
ployment, and acquired it to such
a Degree, that he would often on
the Sudden, and afterwards on
the *Bench* resolve very hard Que-
stions, which had puzzled the best
Accomptants about Town. He
rested

Sir Matthew Hale. 25

rested not here, but Studied the *Algebra* both *Speciosa* and *Numerosa*, and went through all the other *Mathematical Sciences*, and made a great Collection of very excellent Instruments, sparing no cost to have them as exact, as Art could make them. He was also very Conversant in *Philosophical Learning*, and in all the curious Experiments, and rare Discoveries of this Age: And had the new Books Written on those Subjects sent him from all Parts, which he both read and examined so Critically, that if the Principles and Hypotheses which he took first up, did any way prepossess him, yet those who have differed most from him, have acknowledged, that in what he has Writ concerning the *Torricellian Experiment*, and of the Rarefaction and Condensation

26 *The Life and Death of*

denfation of the Air ; he fhews as great an Exa^ctnels, and as much Subtilty in the Reasoning he builds on them, as these Principles to which he adhered could bear. But indeed it will seem scarce Credible, that a man so much imployed, and of so severe a temper of Mind, could find leisure to Read, Observe and Write so much of these Subjects as he did. He called them his Diversions, for he often said when he was weary with the Study of the Law, or Divinity, he used to Recreate himself with *Philosophy* or the *Mathematicks* ; To these he added great skill in *Physick*, *Anatomy* and *Chyrurgery* : And he used to say no man could be absolutely a Master in any Profession, without having some skill in other Sciences ; for besides the Satisfaction he had

in

Sir Matthew Hale. 27

in the knowledge of these things, he made use of them often in his Employments. In some Examinations he would put such Questions to *Physitians* or *Chyrurgeons*, that they have professed the *College of Physitians* could not do it more Exactly; by which he discovered great Judgment, as well as much Knowledge in these things: And in his Sickness he used to Argue with his *Doctors* about his Distempers, and the Methods they took with them, like one of their own Profession; which one of them told me he understood, as far as *Speculation* without *Præctice* could carry him.

To this he added great Searches into *Ancient History*, and particularly into the roughest and least delightful part of it, *Chronology*.

28 *The Life and Death of*

nology. He was well acquainted with the Ancient Greek Philosophers, but want of occasion to use it, wore out his Knowledge of the Greek Tongue; and though he never Studied the Hebrew Tongue, yet by his great Conversation with Selden, he understood the most curious things in the Rabinical Learning.

But above all these, he seemed to have made the Study of Divinity the cheif of all others, to which he not only directed every thing else, but also arrived at that pitch in it, that those who have read, what he has Written on these Subjects, will think, they must have had most of his time and thoughts. It may seem Extravagant, and almost Incredible, that one man in no great Compass of years, should have acquired

Sir Matthew Hale. 29

red such a variety of Knowledge; and that in Sciences that require much Leasure and Application. But as his Parts were quick, and his Apprehensions lively, his Memory great, and his Judgements strong; so his Industry was almost Indefatigable. He rose always betimes in the Morning, was never idle, scarce ever held any discourse about Newes, except with some few in whom he confided entirely. He entered into no Correspondence by Letters, except about necessary Business, or matters of Learning, and spent very little time in Eating or Drinking; for as he never went to publick Feasts, so he gave no Entertainments but to the Poor; for he followed our *Saviour's* direction, (of feasting none but these) literally: And
in

30 *The Life and Death of*
in Eating and Drinking, he observed not only great Plainness and Moderation, but lived so *Philosophically*, that he always ended his Meal, with an Appetite : So that he lost little time at it ; (that being the only Portion which he grudged himself) and was disposed to any Exercise of his mind , to which he thought fit to apply himself , immediately after he had Dined : by these means he gained much time, that is otherwise unprofitably wasted.

He had also an admirable equality in the temper of his mind, which disposed him for what ever Studies he thought fit to turn himself to ; And some very uneasy things which he lay under for many years, did rather engage him to, than distract him from his Studies.

When

Sir Matthew Hale. 31

When he was called to the *Barr*, and began to make a Figure in the World, the late unhappy Warrs broke out, in which it was no easie thing, for a Man to preserve his Integrity, and to live Securely, free from great danger and trouble. He had read the Life of *Pomponius Atticus*, Writ by *Nepos*, and having observed, that he had passed through a time of as much Distraction, as ever was in any Age or State, from the Wars of *Marius* and *Scilla*, to the beginnings of *Augustus* his Reign, without the least blemish on his Reputation, and free from any Considerable Danger, being held in great Esteem by all Parties, and courted and favoured by them: He set him as a Pattern to himself, and observing that besides those

Virtues

32 *The Life and Death of*

Virtues which are necessary to all Men, and at all times, there were two things that chiefly preserved *Atticus*, the one was his *engaging in no Faction*, and *medling in no publick Business*, the other was his *constant favouring and reliveing those that were lowest*, which was ascribed by such as prevailed to the Generosity of his Temper, and procured him much Kindness from those on whom he had exercised his Bounty, when it came to their turn to Govern: He resolved to guide himself by those Rules as much as was possible for him to do.

He not only avoided all publick Employment, but the very talking of News, and was always both Favourable and Charitable to those who were deprest, and
was

Sir Matthew Hale. 33

was sure never to provoke any in particular, by censuring or reflecting on their Actions; for many that have Conversed much with him, have told me they never heard him once speak ill of any Person.

He was employed in his practice by all the *Kings* party: He was assigned Council to the Earl of *Strafford*, and Arch Bishop *Laud*, and afterwards to the Blessed *King* himself, when brought to the infamous Pageantry of a Mock-Tryal, and offered to plead for him with all the Courage, that so Glorious a Cause ought to have inspired him with, but was not suffered to appear, because the *King* refusing, as he had good reason, to submit to the Court; it was pretended none could be admitted to speak for him. He

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was

34 *The Life and Death of*
was also Council for the Duke of
Hamilton, the *Earl of Holland*,
and the *Lord Capel*: His Plea for the
former of these I have published
in the *Memoires* of that *Dukes* life.
Afterwards also being Council
for the *Lord Craven*, he pleaded
with that force of Argument,
that the then Attorney General,
threatned him for appearing a-
gainst the Government, to whom
he answered, he was Pleading in
defence of those Laws, which they de-
clared they would maintain and pre-
serve, and he was doing his duty to his
Client, so that he was not to be daun-
ted with Threatnings.

Upon all these occasions he
had discharged himself with so
much Learning, Fidelity, and
Courage, that he came to be ge-
nerally imployed for all that Par-
ty; Nor was he satisfied to ap-
pear

Sir Matthew Hale. 35

pear for their just Defence in the way of his Profession, but he also relieved them often in their Necessities; which he did in a way that was no less Prudent than Charitable, considering the dangers of that time: for he did often deposite considerable Sums in the hands of a Worthy Gentleman of the *Kings* Party, who knew their Necessities well, and was to Distribute his Charity according to his own Discretion, without either letting them know, from whence it came, or giving himself any Account to whom he had given it.

Cromwell seeing him possess of so much Practice, and he being one of the Eminentest Men of the Law, who was not at all affraid of doing his duty in those Critical times; resolved to take him off

36 *The Life and Death of*
from it, and raise him to the
Bench.

Mr. *Hale* saw well enough the Snare laid for him, and though he did not much consider the prejudice it would be to himself, to Exchange the easie and safer profits he had by his Practice, for a Judges place in the *Common-Pleas*, which he was required to accept of, yet he did deliberate more on the Lawfulness of taking a Commission from Usurpers; but having considered well of this, he came to be of opinion, that it being absolutely necessary, to have Justice and Property kept up at all times: It was no Sin to take a Commission from Usurpers, if he made no Declaration of his acknowledging their Authority, which he never did: He was much urged to Accept of it by some Eminent Men of his own
Pro-

Sir Matthew Hale. 37

Profession, who were of the *Kings Party*, as *Sir Orlando Bridgeman*, and *Sir Geoffery Palmer*; and was also satisfied concerning the lawfulness of it, by the resolution of some famous *Divines*, in particular *Dr. Sheldon*, and *Dr. Henchman*, who were afterwards promoted to the Sees of *Canterbury* and *London*.

To these were added the importunities of all his Friends, who thought that in a time of so much Danger and Oppression, it might be no small Security to the Nation, to have a Man of his Integrity and Abilities on the *Bench*: and the Usurpers themselves held him in that Estimation, that they were glad to have him give a Countenance to their Courts, and by promoting one that was known to have different

38 *The Life and Death of*
Principles from them; Affected
the Reputation of Honouring and
trusting men of Eminent Virtues,
of what perswasion soever they
might be, in relation to publick
Matters.

But he had greater Scruples
concerning the proceeding against
Felons, and putting offenders to
Death by that Commission, since
he thought the Sword of Justice
belonging only by right to the
lawful Prince, it seemed not
warrantable to proceed to a Ca-
pital Sentence by an Authority
derived from Usurpers; yet at
first he made distinction between
common and ordinary Felonies,
and offences against the State;
for the last he would never meddle
in them; for he thought these
might be often legal and warran-
table Actions, and that the put-
ting

Sir Matthew Hale. 39

ting Men to Death on that account was Murder ; but for the ordinary Felonies, he at first was of opinion that it was as necessary even in times of Usurpation to Execute Justice in those cases, as in the matters of property ; For after the *King* was Murthered, he laid by all his Collections of the Pleas of the *Crown*, and that they might not fall into ill hands, he hid them behind the Wainscotting of his Study, for he said there was no more occasion to use them, till the *King* should be again restored to his Right, and so upon his *Majesties* Restoration he took them out, and went on in his design to perfect that great Work.

Yet for some time after he was made a *Judge*, when he went the Circuit, he did sit on the

40 *The Life and Death of*
Crown Side, and Judged Criminals: But having considered farther of it, he came to think that it was at least better not to do it; and so after the Second or Third Circuit, he refused to sit any more on the Crown Side, and told plainly the reason, for in matters of Blood, he was always to choose the safer Side: And indeed he had so carried himself in some Tryals, that they were not unwilling he should withdraw from meddling farther in them, of which I shall give some instances.

Not long after he was made a Judge, which was in the year 1653, when he went the Circuit, a Tryal was brought before him at *Lincoln*, concerning the Murther of one of the Townsmen, who had been of the Kings Party,

Sir Matthew Hale. 41

Party, and was Killed by a Souldier of the *Garrison* there. He was in the Fields with a Fowling piece on his Shoulder, which the Souldier seeing, he came to him and said, it was contrary to an Order which the *Protector* had made, *That none who had been of the Kings Party should carry Armes*, and so he would have forced it from him; But as the other did not regard the Order, so being stronger than the Souldier, he threw him down and having beat him, he left him: The Souldier went into the Town, and told one of his fellow Souldiers how he had been used, and got him to go with him, and lie in wait for the Man that he might be revenged on him. They both watched his coming to Town, and one of them went to him to demand his
Gun,

42 *The Life and Death of*

Gun, which he refusing, the Soldier struck at him, and as they were struggling, the other came behind, and ran his Sword into his Body, of which he presently died. It was in the time of the Affizes, so they were both Tried: Against the one there was no Evidence of forethought Felony, so he was only found guilty of Man-Slaughter, and Burnt on the Hand; But the other was found guilty of Murther: And though Collonel *Whaley* that Commanded the *Garrison*, came into the Court and urged, *that the Man was Killed only for disobeying the Protectors Orders*, and *that the Soldier was but doing his Duty*; yet the Judge regarded both his Reasons and Threatnings very little, and therefore he not only gave Sentence against him, but ordered the Execution

Sir Matthew Hale. 43

to be so suddenly done, that it might not be possible to procure a Reprieve, which he believed would have been obtained, if there had been time enough granted for it.

Another occasion was given him of shewing both his Justice and Courage, when he was in another Circuit; he understood that the *Protector* had ordered a *Jury* to be returned for a Tryal in which he was more than ordinarily concerned: upon this information, he Examined the *Sheriff* about it, who knew nothing of it, for he said he referred all such things to the under-*Sheriff*, and having next asked the under-*Sheriff* concerning it, he found the *Jury* had been returned by order from *Cromwell*; Upon which he shewed the Statute, that all *Juries* ought

44 *The Life and Death of*
ought to be returned by the *Sheriff* or his lawful Officer; And this not being done according to Law, he dismissed the *Jury*, and would not try the Cause: Upon which the *Protector* was highly displeased with him, and at his return from the Circuit, he told him in Anger *he was not fit to be a Judge*, to which all the Answer he made was, *That it was very true.*

Another thing met him in the Circuit, upon which he resolved to have proceeded severely: Some *Anabaptists* had rushed into a Church, and had disturbed a Congregation, while they were receiving the Sacrament, not without some Violence; At this he was highly offended, for he said *it was intolerable for men, who pretended to highly so liberty of Conscience,*

Sir Matthew Hale. 45

ence, to go and disturb others; Especially those who had the Incouragement of the Law on their side: but these were so supported by some great Magistrates and Officers, that a stop was put to his proceedings; upon which he declared, he would meddle no more with the Tryals on the Crown-side.

When Penruddocks Tryal was brought on, there was a special Messenger sent to him requiring him to assist at it. It was in Vacation time; and he was at his Country-House at Alderly: he plainly refused to go, and said, the four Terms, and two Circuits, were enough, and the little Interval that was between, was little enough for their private affairs, and so he excused himself; he thought it was not necessary to speak more clearly, but if he had been urged to it, he would

46 *The Life and Death of*
would not have been affraid of
doing it.

He was at that time chosen a
Parliament-Man, (for there being
then no House of Lords, *Judges*
might have been chosen to sit
in the House of Commons) and
he went to it, on design to ob-
struct the Mad and Wicked pro-
jects then on foot, by two par-
ties, that had very different Prin-
ciples and ends.

On the one hand, some that
were perhaps more sincere, yet
were really Brain-sick, designed
they knew not what, being re-
solved to pull down a *Standing*
Ministry, the *Law*, and property
of *England*, and all the *Ancient*
Rules of this Government, and
set up in its room an *Indigested*
Enthusiastical Scheme, which they
called the *Kingdom of Christ*, or
of

Sir Matthew Hale. 47

of his *Saints*; many of them being really in expectation, that one day or another Christ would come down, and sit among them, and at least they thought to begin the *glorious Thousand years*, mentioned in the *Revelation*.

Others at the same time, taking advantages from the Fears and Apprehensions, that all the sober Men of the Nation were in, lest they should fall under the Tyranny of a distracted sort of People, who to all their other ill Principles, added *great Cruelty*, which they had Copied from those at *Munster* in the former Age, Intended to improve that opportunity to raise their own Fortunes and Families. Amidst these, *Judge Hale* steered a middle Course; for as he would engage for neither side, so he with

48 *The Life and Death of*

a great many more Worthy men came to *Parliaments*, more out of a design to *hinder Mischief*, than to *do much good*; wisely foreseeing, that the Inclinations for the *Royal Family* were daily growing so much, that in time the disorders then in Agitation, would ferment to that happy Resolution, in which they determined in *May, 1660*. And therefore all that could be then done, was to oppose the ill designs of both Parties, the *Enthusiasts* as well as the *Usurpers*. Among the other extravagant Motions made in this *Parliament*, one was, to *destroy all the Records in the Tower*, and to *settle the Nation on a New-Foundati-on*; so he took this Province to himself, to shew the *Madness* of this Proposition, the *Injustice* of it, and the *Mischeifs* that would follow

Sir Matthew Hale. 49

follow on it, and did it with such Clearness, and strength of Reason, as not only satisfied all sober Persons (for it may be supposed that was soon done) but stopt even the Mouths of the frantick people themselves,

Thus he continued administering Justice till the *Protector* died, but then he both refused the Mournings that were sent to him and his Servants for the Funeral, and likewise to accept of the New Commission that was offered him by *Richard*, and when the rest of the *Judges* urged it upon him, and imployed others to press him to accept of it, he rejected all their Importunities, and said *he could act no longer under such Authority.*

He lived a private man till the *Parliament* met that called
E home

50 *The Life and Death of*
home the *King*, to which he was
returned Knight of the Shire from
the County *Glocester*. It ap-
peared at that time how much
he was beloved and Esteemed in
his Neighborhood, for though a-
nother who stood in Competition
with him had spent near a Thou-
sand pounds to procure Voices,
a great Sum to be employed that
way in those days, and he had been
at no cost, and was so far from sol-
liciting it, that he had stood out
long against those who press'd him
to appear, and he did not promise
to appear till three days before the
Election, yet he was preferred. He
was brought thither almost by
Violence, by the Lord (now
Earl of) *Berkeley*, who bore all
the charge of the Entertainments
on the day of his Election, which
was considerable, and had en-
gaged

Sir Matthew Hale. 51

gaged all his Friends and Interest for him : and whereas by the Writ, the Knight of a Shire must be *Miles gladio cinctus* , and he had no Sword , that Noble Lord girt him with his own Sword during the Election, but he was soon weary of it, for the Imbrodery of the Belt, did not sute well with the plainness of his Clothes : and indeed the Election did not hold long, for as soon as ever he came into the Field, he was chosen by much the greater Number, though the Poll continued for three or four days.

In that *Parliament* he bore his share, in the happy period then put to the *Confusions* that threatened the utter Ruin of the Nation, which contrary to the Expectations of the most Sanguine,

52 *The Life and Death of*

settled in so serene and quiet a manner, that those who had formerly built so much on their Success, calling it an *Answer* from Heaven to their solemn Appeals, to the providence of God, were now not a little Confounded, to see all this turned against themselves, in an instance much more extraordinary than any of those were, upon which they had built so much. His great Prudence and Excellent temper led him to think, that the sooner an Act of Indemnity were passed, and the fuller it were of Graces and Favours, it would sooner settle the Nation, and quiet the minds of the People; and therefore he applied himself with a particular care to the framing and carrying it on: In which it was visible he had no concern of his own, but

Sir Matthew Hale. 53

but merely his love of the Publick that set him on to it.

Soon after this, when the Courts in *Westminster-Hall* came to be settled, he was made *Lord Chief Baron*; and when the *Earl of Clarendon* (then *Lord Chancellor*) delivered him his Commission, in the Speech he made according to the Custome on such Occasions, he expressed his *Esteem* of him in a very singular manner, telling him among other things, that if the King could have found out an honest and fitter Man for that Employment, he would not have advanced him to it; and that he had therefore preferred him, because he knew none that deserved it so well. It is ordinary for Persons so promoted to be Knighted, but he desired to avoid having that Honour done him, and therefore for

54 *The Life and Death of*
a Considerable time declined all opportunities of waiting on the *King*, which the *Lord Chancellor* observing, sent for him upon Business one day, when the *King* was at his House, and told his *Majesty* there was his modest *Chief Baron*, upon which, he was unexpectedly Knighted.

He continued Eleven Years in that place, Managing the Court, and all Proceedings in it with singular Justice. It was observed by the whole Nation, how much he raised the Reputation and Practice of it: And those who held Places, and Offices in it, can all declare, not only the Impartiality of his Justice, for that is but a common Virtue, but his Generosity, his vast Diligence, and his great Exactness in Tryals. This gave occasion to the only
Com-

Sir Matthew Hale. 55

Complaint that ever was made of him, *That he did not dispatch Matters quick enough*; but the great care he used, to put Suits to a final End, as it made him slower in deciding them; so it had this good Effect, that Causes tryed before him, were seldom if ever tryed again.

Nor did his Administration of Justice lie only in that Court: He was one of the principal Judges that sate in *Cliffords-Inn*, about settling the difference between Landlord and Tenant, after the *Dreadful Fire of London*. He being the first that offered his Service to the City, for accommodating all the differences that might have arisen about the Rebuilding it, in which he behaved himself to the satisfaction of all Persons concerned; So that the suddain and quiet Building

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56 *The Life and Death of*
ding of the City, which is justly
to be Reckoned one of the *Won-*
ders of the Age, is in no small
Measure due to the great care,
which he and Sir Orlando Bridge-
man, (then Lord Cheif Justice of
the Common-Plea's afterwards Lord
Keeper of the great Seal of Eng-
land) used, and to the Judgment
they shewed in that Affair : since
without the Rules then laid down,
there might have otherwise fol-
lowed such an endless train of vex-
atious Suits, as might have been lit-
tle less chargeable than the Fire it
self had been. But without detract-
ing from the Labours of the other
Judges, it must be acknowledged
that he was the most instrumen-
tal in that great work ; for he
first by way of Scheme, contri-
ved the Rules upon which he and
the rest proceeded afterwards ;
in

Sir Matthew Hale. 57

in which his readiness at *Arithmetick*, and his skill in *Architecure* were of great use to him.

But it will not seem strange that a *Judge* behaved himself as he did, who at the Entry into his *Employment*, set such excellent Rules to himself, which will appear in the following Paper Copied from the Original under his own hand.

Things Necessary to be Continually had in Remembrance.

I. That in the Administration of Justice, I am intrusted for God, the King and Country; and therefore,

I I. That it be done, 1. Uprightly,
2. Deliberately, 3. Resolutely.

III.

58 *The Life and Death of*

- III. That I rest not upon my own Understanding or Strength, but Implore and rest upon the Direction and Strength of God.
- IV. That in the Execution of Justice, I carefully lay aside my own Passions, and not give way to them, however provoked.
- V. That I be wholly intent upon the Business I am about, remitting all other Cares and Thoughts, as unreasonable and Interruptions.
- VI. That I suffer not my self to be prepossessed with any Judgment at all, till the whole Business and both Parties be heard.
- VII. That I never engage my self in the beginning of any Cause, but reserve my self unprejudiced till the whole be heard,
- VIII. That in Business Capital, though my Nature prompt me to Pity; yet to consider, that there

Sir Matthew Hale. 59

is also a Pity due to the Country.

I X. That I be not too Rigid in matters purely Conscientious, where all the harm is Diversity of Judgment.

X. That I be not biassed with Compassion to the Poor, or favour to the Rich, in point of Justice.

X I. That Popular, or Court Applause, or Dislike, have no Influence into anything I do in point of Distribution of Justice.

X II. Not to be solicitous what Men will say or think, so long as I keep my self exactly according to the Rule of Justice.

X III. If in Criminals it be a measuring Cast, to incline to Mercy and Acquittal.

X IV. In Criminals that consist merely in words, when no more harm ensues, Moderation is no Injustice.

X V.

60 *The Life and Death of*

XV. In Criminals of Blood, if the Fact be Evident, Severity is Justice.

XVI. To abhor all private Sollicitations, of what kind soever, and by whom soever, in matters Depending.

XVII. To charge my Servants, 1. Not to interpose in any Business whatsoever, 2. Not to take more than their known Fees, 3. Not to give any undue precedence to Causes, 4. Not to recommend Council.

XVIII. To be short and sparing at Meals, that I may be the fitter for Business.

He would never receive private Addresses or Recommendations from the greatest Persons in any matter, in which Justice was Concerned. One of the first Peers of
Eng.

Sir Matthew Hale. 61

England went once to his Chamber and told him, that having a Suite in Law to be tryed before him, he was then to acquaint him with it, that he might the better understand it, when it should come to be heard in Court. Upon which the Lord Cheif Baron interrupted him, and said he did not deal fairly to come to his Chamber about such Affairs, for he never received any Information of Causes but in open Court, where both Parties were to be heard alike, so he would not suffer him to go on: Whereupon his Grace (for he was a Duke) went away not a little dissatisfied, and complained of it to the King, as a Rudeness that was not to be endured. But his Majesty bid him content himself that he was no worse used, and said, he verily believed he would have used himself no better, if
he

62 *The Life and Death of*

he had gone to sollicite him in any of his own Causes.

Another passage fell out in one of his Circuits, which was somewhat censured as an affectation of an unreasonable strictness, but it flowed from his Exactness to the Rules he had set him self: A Gentleman had sent him a Buck for his Table, that had a Trial at the *Affizes*; So when he heard his Name, he asked if he was not the same Person that had sent him *Venison*, and finding he was the same, he told him, he could not suffer the Trial to go on, till he had paid him for his Buck; to which the Gentleman answered, that he never sold his *Venison*, and that he had done nothing to him, which he did not do to every Judge that had gone that Circuit, which was confirmed by several Gentlemen then present:
but

Sir Matthew Hale. 63

but all would not do, for the Lord Cheif Baron had learned from Solomon, that a gift *perverteth the ways of Judgment*, and therefore he would not suffer the Trial to go on, till he had paid for the present; upon which the Gentleman withdrew the Record; and at Salisbury the Dean and Chapter having according to the Custom presented him with six Sugar Loaves in his Circuit, he made his Servants pay for the Sugar before he would try their Cause.

It was not so easie for him to throw off the importunities of the Poor, for whom his *Compassion* wrought more powerfully than his regard to Wealth and Greatness, yet when Justice was concerned, even *that* did not turn him out of the way. There was one that had been put out of a
place

64 *The Life and Death of*
place for some ill behaviour ;
who urged the Lord Cheif Baron
to set his hand to a Certificate, to re-
store him to it, or provide him with
an other : But he told him plain-
ly his fault was such that he could
not do it ; the other pressed him
vehemently and fell down on his
knees, and begged it of him with
many Tears ; but finding that
could not prevail, he said he should
be utterly Ruined if he did it not ;
and he should Curse him for it every
day. But that having no Effect,
then he fell out into all the re-
proachful words, that Passion
and Despair could inspire him
with, to which all the answer the
Lord Cheif Baron made, was, that
he could very well bear all his Re-
proaches, but he could not for all that
set his hand to his Certificate. He
saw he was Poor, so he gave
him

Sir Matthew Hale. 65

him a large Charity and sent him away.

But now he was to go on after his Pattern, *Pomponius Atticus*, still to favour and relieve them that were lowest; So besides great Charities to the *Nonconformists*, who were then as he thought too hardly used, he took great care to cover them all he could, from the Severities some designed against them, and discouraged those who were inclined to stretch the Laws too much against them: He lamented the differences that were raised in this Church very much, and according to the Impartiality of his Justice, he blamed some things on both sides, which I shall set down with the same freedom that he spake them. He thought many of the Nonconformists, had
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66 *The Life and Death of*
merited highly in the Business of
the *Kings Restoration*, and at
least deserved that the terms of
Conformity should not have been
made *stricter*, than they were be-
fore the War. There was not
then that *dreadful* prospect of *Po-*
pery, that has appeared since: But
that which afflicted him most
was, that he saw the *Heats* and
Contentions which followed upon
those *different Parties and Interests*,
did take People off from the *In-*
dispensable things of Religion, and
slackned the *Zeal* of other ways
Good men for the substance of it,
so much being spent about *Exter-*
nal and Indifferent things. It al-
so gave advantages to *Atheists*,
to treat the most *Sacred Points* of
our holy Faith, as *Ridiculous*,
when they saw the Professors of
it contend, so *fiercely*, and with
such

Sir Matthew Hale. 67

such *bitterness*, about *lesser Matters*:
He was much offended at all
those Books that were written,
to expose the *contrary Sect* to the
scorn and contempt of the Age in
a wanton and petulant Style;
He thought such Writers wound-
ded the *Christian Religion*, through
the sides of those who differed
from them: while a sort of lewd
People, who having assumed to
themselves the Title of the *Witts*
(though but a very few of them
have a right to it) took up from
both hands, what they had said,
to make one another shew Ridi-
culous, and from thence perswa-
ded the World to *laugh* at both,
and at *all Religion* for their sakes.
And therefore he often wished
there might be some Law, to
make all *Scurrility* or *Bitterness* in
Disputes about Religion *punishable*.

68 *The Life and Death of*

But as he lamented the proceedings too rigourously against the *Nonconformists*, so he declared himself always of the side of the *Church of England*, and said those of the *Separation* were good Men, but they had narrow Soules, who would break the Peace of the Church, about such *inconsiderable Matters*, as the points in difference were.

He scarce ever medled in State Intrigues, yet upon a Proposition that was set on foot by the *Lord Keeper Bridgeman*, for a *Comprehension* of the more moderate Dissenters, and a *limited Indulgence* towards such as could not be brought within the *Comprehension*, he dispensed with his Maxim, of *avoiding to engage in Matters of State*. There were several Meetings upon that occasion.

Sir Matthew Hale. 69

sion. The *Divine* of the Church of *England* that appeared most considerably for it, was Doctor *Wilkins*, afterwards promoted to the Bishoprick of *Chester*, a Man of as great a Mind, as true a Judgment, as eminent Virtues, and of as good a Soul, as any I ever knew. He being determined as well by his excellent temper, as by his Foresight and Prudence, by which he early perceived the great Prejudices that Religion received, and the vast Dangers the *Reformation* was like to fall under by those Divisions; set about that project with the Magnanimity that was indeed peculiar to himself; for though he was much Censured by many of his own side, and seconded by very few, yet he pushed it as far as he could: After several Conferences

70 *The Life and Death of*
with two of the Eminentest of
the *Presbyterian* Divines, *Heads*
were agreed on, some *Abatements*
were to be made, and *Explanati-*
ons were to be accepted of. The
particulars of that Project being
thus concerted, they were brought
to the *Lord Chief Baron*, who put
them in form of a Bill, to be
presented to the next Sessions of
Parliament.

But two Parties appeared vi-
gorously against this Design, the
one was of some zealous Clergy-
men, who thought it below the
Dignity of the Church to alter
Laws, and *change* Setlements for
the sake of some whom they
Esteemed *Schismaticks*: They al-
so believed, it was better to keep
them out of the Church, than
bring them into it, since a *Facti-*
on upon that would arise in the
Church,

Sir Matthew Hale. 71

Church, which they thought might be more *Dangerous* than the *Schism* it self was. Besides they said, if some things were now to be changed in Compliance with the humour of a party, as soon as that was done, another party might demand *other Concessions*, and there might be as good reasons invented for these as for those: Many such Concessions might also shake those of our own Communion, and tempt them to forsake us, and go over to the Church of *Rome*, pretending that we *changed* so often, that they were thereby inclined to be of a Church, that was *constant* and *true* to her self. These were the reasons brought, and chiefly insisted on against all *Comprehension*; and they wrought upon the *greater part* of the House of Commons, so

72 *The Life and Death of*

that they passed a Vote against the receiving of any Bill for that Effect.

There were others that opposed it upon very different ends: They designed to shelter the *Papists* from the Execution of the Law, and saw clearly that nothing could bring in *Popery* so well as a *Toleration*. But to tolerate *Popery* bare-faced, would have startled the Nation too much; so it was Necessary to hinder all the Propositions for Union, since the keeping up the differences was the best Colour they could find, for getting the Toleration to pass only as a slackning the Laws against Dissenters, whose Numbers and Wealth made it adviseable to have some regard to them; and under this pretence *Popery* might have crept in more
cove-

Sir Matthew Hale. 73

covered, and less regarded: So these Councils being more acceptable to some *concealed Papists* then in great Power, as has since appeared but too Evidently, the whole Project for *Comprhension* was let fall, and those who had set it on foot, came to be looked on with an ill eye, as *secret Favourers* of the Dissenters, *Underminers* of the Church, and every thing else that Jealousie and distaste could cast on them.

But upon this occasion the *Lord Cheif Baron*, and *Dr. Wilkins*, came to contract a firm and familiar Friendship; and the *Lord Cheif Baron* having much Business, and little time to spare, did to enjoy the other the more, what he had scarce ever done before, he went sometimes to Dine with him. And though he lived in
great

74 *The Life and Death of*
great Friendship with some other
eminent Clergy-men, as Dr. *Ward*,
Bishop of *Salisbury* ; Dr. *Barlow*,
Bishop of *Lincoln* ; Dr. *Barrow*,
late Master of *Trinity Colledge* ;
Dr. *Tillotson*, Dean of *Canterbury* ;
and Dr. *Stillingfleet*, Dean of *St.*
Pauls, (Men so well known and
so much Esteemed, that as it was
no wonder the Lord Chief Baron
valued their Conversation highly,
so those of them that are yet alive
will think it no lessening of the
Character they are so deservedly
in, That they are reckoned a-
mong Judge *Hale's* Friends) yet
there was an intimacy and free-
dom in his converse with Bishop
Wilkins that was singular to him
alone : He had during the late
Wars, lived in a long and entire
Friendship with the Apostolical
Primate of *Ireland* Bishop *Usher* :
Their

Sir Matthew Hale. 75

Their curious searches into Antiquity, and the Sympathy of both their Tempers led them to a great Agreement almost in every thing. He held also great Conversation with Mr. Baxter, who was his Neighbour at *Acton*, on whom he looked as a Person of great Devotion and Piety, and of a very subtile and quick Apprehension: their Conversation lay most in *Metaphysical* and *abstracted Idea's* and *Schemes*.

He looked with great Sorrow on the Impiety and Atheism of the Age, and so he set himself to oppose it, not only by the shining Example of his own Life, but by engaging in a Cause, that indeed could hardly fall into better hands: And as he could not find a Subject more worthy of himself, so there were few in
the

76 *The Life and Death of*

the Age that understood it so well, and could manage it more Skillfully. The occasion that first led him to Write about it was this. He was a strict observer of the *Lords Day*, in which, besides his constancy in the publick Worship of God, he used to call all his Family together, and repeat to them the Heads of the Sermons, with some Additions of his own, which he fitted for their Capacities, and Circumstances, and that being done, he had a Custome of shutting himself up for two or three Hours, which he either spent in his *secret Devotions*, or on such profitable *Meditations* as did then occur to his thoughts: He writ them with the same simplicity that he formed them in his Mind, without any Art, or so much as a thought

to

Sir Matthew Hale. 77

to let them be published: He never Corrected them, but laid them by, when he had finished them, having intended only to fix and preserve his own Reflections in them; So that he used no sort of care to polish them, or make the first draught perfecter than when they fell from his Pen: These fell into the hands of a worthy Person, and he judging, as well he might, that the Communicating them to the World, might be a publick service, Printed two Volumes of them in Octavo a little before the Authors Death, Containing his

CONTEMPLATIONS,

- I. *Of our latter End.*
- II. *Of Wisdom, and the fear of God.*
- III. *Of the knowledge of Christ Crucified.*

IV.

78 *The Life and Death of*

IV. *The Victory of faith over the World.*

V. *Of Humility.*

VI. *Jacobs Vow.*

VII. *Of Contentation.*

VIII. *Of Afflictions.*

IX. *A good method to entertain unstable and troublesome times.*

X. *Changes and Troubles, a Poem.*

XI. *Of the Redemption of time.*

XII. *The great Audit.*

XIII *Directions touching keeping the Lords Day, in a Letter to his Children.*

XIV. *Poems Written upon Christmas-day.*

In the 2d. Volume.

I. *An Enquiry touching Happiness.*

II. *Of the Chief end of Man.*

III. *Upon 12 Eccles. 1. Remember thy Creator.*

IV.

Sir ~~Matthew~~ Hale. 79

IV. Upon the 51. Psal. v. 10. Create a clean heart in me, with a Poem.

V. The folly and Mischeif of Sin.

VI. Of self-Denial.

VII. Motives to Watchfulness, in reference to the Good and Evil Angels.

VIII. Of Moderation of the Affections.

IX. Of Worldly hope and Expectation.

X. Upon 13. Heb. 14. We have here no Continuing City.

XI. Of Contentedness and Patience.

XII. Of Moderation of Anger.

XIII. A preparative against Afflictions.

XIV. Of Submission, Prayer, and Thanksgiving.

XV. Of Prayer and Thanksgiving on Psal. 116. 12.

XVI.

80 *The Life and Death of*
XVI. Meditations on the Lords
Prayer, with a Paraphrase upon
it.

In them there appears a Generous and true Spirit of Religion, mixt with most serious and fervent Devotion, and perhaps with the more advantage, that the Stile wants some Correction, which shews they were the genuine Productions of an excellent Mind, entertaining it self in secret with such Contemplations. The Stile is clear and Masculine, in a due temper between flatness and affectation, in which he expresses his thoughts both easily and decently: In writing these Discourses, having run over most of the Subjects that his own Circumstances led him chiefly to consider, he began to be in some
pain

Sir Matthew Hale. 81

pain to chuse new Arguments ; and therefore resolved to fix on a Theam that should hold him longer.

He was soon determined in his Choice, by the immoral and irreligious Principles and Practices, that had so long vexed his Righteous Soul : And therefore began a great design against *Atheisme*, the first part of which is only Printed, of the *Origination of Mankind*, designed to prove the *Creation of the World*, and the *truth of the Mosaical History*.

The Second part was of the *Nature of the Soul*, and of a *future State*.

The Third part was concerning the *Attributes of God*, both from the *abstracted Idea's* of him, and the *Licht of Nature* ; the *Evidence of Providence*, the *notions of Moraliz-*

82 *The Life and Death of*
ty, and the voice of Conscience.

And the Fourth part was concerning the *Truth and Authority of the Scriptures*, with *Answers* to the *Objections* against them: On writing these he spent Seven years. He Wrote them with so much Consideration, that one who perused the Original under his own hand, which was the first draught of it; told me, he did not remember of any *considerable* Alteration, perhaps not of *twenty words* in the whole Work.

The way of his Writing them, only on the Evenings of the *Lords Day*, when he was in Town, and not much oftner when he was in the Country, made, that they are not so contracted, as it is very likely he would have writ them, if he had been more at leisure to have brought his thoughts
into

Sir Matthew Hale. 83

into a narrower Compass, and fewer words.

But making some Allowance for the largeness of the Stile, that Volum that is Printed, is generally acknowledged to be one of the *perfectest* pieces both of *Learning* and *Reasoning* that has been Writ on that Subject: And he who read a great part of the other Volumes told me, they were all of a piece with the first.

When he had finished this Work, he sent it by an unknown hand to Bishop *Wilkins*, to desire his Judgment of it; But he that brought it, would give no other Account of the Authour, but *that he was not a Clergy man*. The Bishop, and his worthy Friend Dr. *Tillotson*, read a great deal of it with much pleasure, but could not imagine who could be the

G 2

Author,

84 *The Life and Death of*

Author, and how a Man that was Master of so much Reason, and so great a variety of Knowledge, should be so *unknown* to them, that they could not find him out, by those Characters, which are so little Common. At last Dr. Tillotson guessed it must be the Lord Chief Baron, to which the other presently agreed, wondering he had been so long in finding it out. So they went immediately to him, and the Bishop thanking him for the Entertainment he had received from his Works, he blushed extreamly, not without some displeasure, apprehending that the Person he had trusted had discovered him. But the Bishop soon cleared that, and told him, he had discovered himself, for the learning of that Book was so various, that none but he could

Sir Matthew Hale. 85

could be the Author of it. And that Bishop having a freedom in delivering his opinion of things and Persons, which perhaps few ever managed both with so much plainness and Prudence, told him, there was nothing could be better said on these Arguments, if he could bring it into a less Compass, but if he had not leisure for that, he thought it much better to have it come out, though a little too large, than that the World should be deprived of the good which it must needs do. But our Judge, had never the opportunities of revising it, so a little before his Death, he sent the first part of it to the Press.

In the beginning of it, he gives an Essay of his Excellent way of Methodizing things, in which he was so great a Master, that whatever he undertook, he would

86 *The Life and Death of*
presently cast into so perfect a
Scheme, that he could never af-
terwards Correct it: He runs
out Copiously upon the Argu-
ment of the *Impossibility* of an
Eternal Succession of Time, to shew
that *Time* and *Eternity* are incon-
sistent one with another; And
that therefore all *Duration* that
was past, and defined by *Time*,
could not be from *Eternity*, and
he shews the *difference* between
successive Eternity already past,
and one to come; So that
though the *latter* is possible, the
former is not so; for all the parts
of the *former* have actually been,
and therefore being defined by
Time, cannot be *Eternal*; whereas
the *other* are still future to all
Eternity, so that this reasoning can-
not be turned to prove the *possi-*
bility of Eternal Successions, that
have

Sir Matthew Hale. 87

have been, as well as *Eternal Successions* that *shall be*. This he follows with a Strength, I never met with in any that Managed it before him.

He brings next all those Moral Arguments, to prove *that the World had a beginning*; agreeing to the Account *Moses* gives of it, as that no *History* rises higher, than near the time of the *Deluge*; and that the *first Foundation* of Kingdoms, the *Invention* of Arts, the *Beginnings* of all Religions, the *gradual Plantation* of the World, and *Increase* of Mankind, and the *Consent* of Nations do agree with it. In managing these, as he shews *profound Skill* both in *Historical*, and *Philosophical Learning*, so he gives a *Noble Discovery* of his great Candor and Probity, that he would not Impose on the Rea-

88 *The Life and Death of*

der with a false shew of reasoning by Arguments, that he knew had Flawes in them; and therefore upon every one of these, he adds such Allays, as in a great measure lessened and took off their force, with as much Exactness of Judgment, and strictness of Censure, as if he had been set to Plead for the other Side: And indeed Sums up the whole Evidence for Religion, as impartially as ever he did in a Tryal for Life or Death to the Jury; which how Equally and Judiciously he always did, the whole Nation well knows.

After that, he Examines the *Ancient Opinions* of the *Philosophers*, and enlarges with a great variety of curious Reflections in answering that only Argument, that has any appearance of Strength for
the

Sir Matthew Hale. 89

the *Casual* production of Man, from the *origination of Insects* out of *putrified Matter*, as is commonly supposed, and he concluded the Book, shewing how *Rational* and *Philosophical* the Account which *Moses* gives of it is. There is in it all a sagacity and quickness of Thought, mixed with great and curious Learning, that I confess I never met together in any other Book on that Subject: Among other Conjectures, one he gives concerning the Deluge is, *that he did not think the Face of the Earth and the Waters, were altogether the same before the Universal Deluge, and after: But possibly the Face of the Earth was more even than now it is: The Seas possibly more dilated and extended, and not so deep as now: And a little after, possibly the Seas have undermined much of the appear-*
ing

90 *The Life and Death of*
ing Continent of Earth. This I the
rather take notice of, because it
hath been since his Death, made
out in a most Ingenious, and
most Elegantly Writ Book, by Mr.
Burnet of Christ's Colledge in Cam-
bridge, who has given such an
Essay towards the proving the
possibility of an *universal Deluge,*
and from thence, has Collected
with great Sagacity what *Para-*
dise was before it, as has not been
offered by any *Philosopher* before
him.

While the Judge was thus im-
ploying his time, the *Lord Ch. Just.*
Keyling dying, he was on the
18th. of May 1671, promoted
to be *Lord Cheif Justice of England.*
He had made the *Pleas of the Crown*
one of his Cheif Studies, and by
much search, and long Obser-
vation, had Composed that
great

Sir Matthew Hale. 91

great Work concerning them, formerly mentioned: He that holds the high Office of *Justiciary* in that Court, being the Cheif Trustee, and Assertor of the Liberties of his Countrey; all People applauded this Choice, and thought their Liberties could not be better deposited than in the hands of one, that as he understood them well, so he had all the Justice and Courage, that so Sacred a Trust required. One thing was much observed and commended in him, that when there was a great *Inequality* in the *Ability* and *Learning* of the Councillors that were to Plead one against another: He thought it became him, as the *Judge*, to Supply that; so he would enforce what the weaker Council managed but *indifferently*, and not suffer the *more Learned* to carry the
Busi-

92 *The Life and Death of*

Business by the *Advantage* they had over the others in their *quickness* and *skill* in Law, and *readiness* in Pleading, till all things were cleared in which the *Merits* and *Strength* of the ill defended Cause lay. He was not satisfied barely to give his Judgment in Causes, but did especially in all Intricate ones, give such an Account of the Reasons that prevailed with him; that the Council did not only acquiesce in his Authority, but were so convinced by his Reasons, that I have heard many profess that he brought them often to change their opinions; so that his giving of judgment was really a learned Lecture upon that point of Law: and which was yet more, the Parties themselves, though Interest does too commonly corrupt the Judgment, were generally satisfied with

Sir Matthew Hale. 93

with the Justice of his decisions, even when they were made against them. His Impartial Justice, and great Diligence, drew the Cheif Practice after him, into whatsoever Court he came : since, though the Courts of the *Common Pleas*, the *Exchequer* and the *Kings-Bench*, are appointed for the Tryal of Causes of different Natures, yet it is easie to bring most Causes into any of them, as the Council or Attornies please ; so as he had drawn the business much after him, both into the *Common Pleas*, and the *Exchequer*, it now followed him into the *Kings-Bench*, and many Causes that were depending in the *Exchequer* and not determined, were let fall there, and brought again before him in the Court to which he was now removed. And here did he spend the rest of
his

94 *The Life and Death of*

his publick Life and Imployment: But about Four years and a half after this Advancement, he who had hitherto enjoyed a firm and vigorous Health, to which his great Temperance, and the Equality of his Mind, did not a little conduce, was on a sudden brought very low by an Inflammation in his Midriff, which in two days time broke the Constitution of his Health to such a degree, that he never recovered it: He became so Asthmatical, that with great difficulty he could fetch his Breath, that determined in a Dropsie, of which he afterwards Died. He understood Physick so well, that considering his Age, he concluded his Distemper must carry him off in a little time; and therefore he resolved to have some of the last Months of his Life reserved to him.

Sir Matthew Hale. 95

himself, that being freed of all Worldly Cares, he might be preparing for his Change: He was also so much disabled in his Body, that he could hardly, though supported by his Servants, walk through *Westminster-Hall*, or endure the Toile of Business; he had been a long time wearied with the distractions that his Employment had brought on him, and his Profession was become ungrateful to him; he loved to apply himself wholly to better Purposes, as will appear by a Paper that he writ on this Subject, which I shall here Insert.

First, If I consider the Business of my Profession, whether as an Advocate, or as a Judge, it is true I do acknowledge by the Institution of Almighty God, and the Dispensation of his Providence, I am bound to Industry

96 *The Life and Death of*
dustry and Fidelity in it : And as it
is an act of Obedience unto his Will,
it carries with it some things of Reli-
gious Duty, and I may and do take
Comfort in it, and expect a Reward
of my Obedience to him, and the good
that I do to Mankind therein, from
the bounty and beneficence and pro-
mise of Almighty God ; and it is true
also that without such Employments,
civil Societies cannot be supported,
and great good redounds to Mankind
from them, and in these respects the
Conscience of my own Industry, Fide-
lity and Integrity in them, is a great
comfort and satisfaction to me. But
yet this I must say concerning these
Employments, considered simply in
themselves, that they are very full of
Cares, Anxieties and Perturbati-
ons.

Secondly, That though they are
beneficial to others, yet they are of the
least

Sir Matthew Hale. 97

least benefit to him that is employed in them.

Thirdly, That they do necessarily involve the party, whose office it is, in great Dangers, Difficulties, and Calumnies.

Fourthly, That they only serve for the Meridian of this Life, which is short and uncertain.

Fifthly, That though it be my Duty, faithfully to serve in them, while I am called to them, and till I am duly called from them, yet they are great consumers of that little time we have here, which as it seems to me, might be better spent in a pious contemplative Life, and a due provision for Eternity: I do not know a better temporal Employment than Martha had, in testifying her Love and Duty to our Saviour, by making provision for him, yet our Lord tells her, That though she was troubled a-

H

bout

98 *The Life and Death of*
about many things, there was only one
thing necessary, and Mary had cho-
sen the better part.

By this the Reader will see that he continued in his Station upon no other Consideration, but that being set in it by the *providence* of God, he judged he could not abandon that Post which was assigned him, without preferring his own *private Inclination* to the *Choice* God had made for him; but now that *same Providence* having by this *great Distemper* disengaged him from the *Obligation* of holding a Place, which he was no longer able to *discharge*, he resolved to resign it: This was no sooner surmised abroad, than it drew upon him the *Importunities* of all his Friends, and the clamour of the whole Town to divert him from it, but all was
to

Sir Matthew Hale. 99

to no purpose; there was but one Argument that could move him, which was, *that he was obliged to continue in the Imployment God had put him in for the good of the publick*; but to this he had such an Answer, that even those who were most concerned in his withdrawing, could not but see, that the reasons inducing him to it, were but too strong; so he made Applications to his Majesty for his *Writ of Ease*, which the King was very unwilling to grant him, and offered to let him hold his Place still, he doing what Business he could in his Chamber; but he said, *he could not with a good Conscience continue in it*, since he was no longer able to discharge the Duty belonging to it.

But yet such was the General Satisfaction which all the King-

100 *The Life and Death of*
dom received by his Excellent
Administration of Justice, that
the King, though he could not
well deny his Request, yet he
deferred the Granting of it as long
as was possible: Nor could the
Lord Chancellor be prevailed with
to move the King to hasten his
Discharge, though the *Chief Justice*
often pressed him to it.

At last having wearied himself,
and all his Friends, with his im-
portunate desires, and growing
sensibly weaker in Body, he did
upon the 21th. day of *February*,
28. Car. 2. Anno Dom. 1675. go
before a *Master* of the *Chancery*,
with a little Parchment Deed,
drawn by Himself, and Written all
with his own hand, and there Sea-
led and delivered it, and acknow-
ledged it to be Enrolled, and after-
wards he brought the Original
Deed

Sir Matthew Hale. 101

Deed to the *Lord Chancellor*, and did formally surrender his Office in these words.

Omnibus Christi fidelibus ad quos præsens Scriptura pervenerit, Matheus Hale, miles Capitalis Justiciarius Domini Regis ad placita coram ipso Rege tenenda assignatas Salurem in Domino Sempiternam, Noveritis me præfatum Matheum Hale, militem jam senem factum & Variis Corporis mei Senilis morbis & infirmitatibus dire Laborantem & adhuc Detentum. Hâc Chartâ mea Resignare & sursum reddere Serenissimo Domino Nostro Carolo Secundo Dei Gratiâ Angliæ Scotiæ Franciæ & Hiberniæ, Regi, Fidei Defensori, &c. Predictum Officium Capitalis Justiciarii ad placita coram ipso Rege tenenda, humillime petens quod hoc Scriptum irrotaletur de Recordo. In cujus rei Testimo-

102 *The Life and Death of*
nium huic chartæ meæ Resignationis
Sigillum meum apposui, Dat vicesi-
mo primo Die Februarii Anno Regni
dict. Dom. Regis nunc Vicefimo
Octavo.

He made this Instrument as he told the *L.Chancellor* for two Ends, the one was to shew the World his own *free Concurrence* to his Removal: Another was to obviate an Objection heretofore made, that a *Cheif Justice* being placed by *Writ*, was not removable at pleasure, as *Judges by Patent* were; Which opinion, as he said, was once held by his Predecessor the *Lord Cheif Justice Keyling*, and though he himself were always of another opinion, yet he thought it reasonable to prevent such a *Scruple*.

He had the day before sur-
ren-

Sir Matthew Hale. 103

rendered to the King in Person, who parted from him with great Grace, wishing him most heartily the return of his Health, and assuring him that he would still look upon him as one of his Judges, and have recourse to his Advice when his Health would permit, and in the mean time would continue his Pension during his Life.

The Good man thought this Bounty too great, and an ill Precedent for the King, and therefore Writ a Letter to the Lord Treasurer, earnestly desiring that his Pension might be only during Pleasure, but the King would grant it for Life, and make it payable Quarterly.

And yet for a whole Month together, he would not suffer his Servant to Sue out his Patent for his Pension, and when the first

104 *The Life and Death of*

Payment was received, he ordered a great part of it to Charitable Uses, and said, he intended most of it should be so Employed as long as it was paid him.

At last he happened to Die upon the Quarter day, which was Christmas day, and though this might have given some occasion to a dispute whither the Pension for that Quarter were recoverable, yet the King was pleased to decide that Matter against himself, and ordered the Pension to be paid to his Executors.

As soon as he was discharged from his great Place, he returned home with as much Chearfulness, as his want of Health could admit of, being now eased of a Burthen he had been of late groaning under, and so made
more

Sir Matthew Hale. 105

more capable of Enjoying that which he had much wished for, according to his Elegant Translation of, or rather Paraphrase upon, those excellent Lines in Seneca's *Thyestes*. *Act. 2.*

*Stet quicunque volet potens,
Aulæ culmine lubrico :
Me dulcis Saturet quies.
Obscuro positus loco,
Leni perfruar otio :
Nullis nota Quiritibus,
Ætas per tacitum fluat.
Sic cum Transierint mei,
Nullo cum Strepitu dies,
Plebeius moriar Senex.
Illi mors gravis incubat,
Qui notus nimis omnibus,
Ignotus moritur sibi.*

Let

106 *The Life and Death of*
Let him that will ascend, the tot-
tering Seat
Of courtly *Grandeur*, and become
as great
As are his mounting *Wishes*: As
for me,
Let sweet *repose* and rest my *Por-*
tion be ;
Give me some mean obscure *Recess*,
a Sphere
Out of the *Road of Business*, or
the fear
Of *falling lower* ; where I sweetly
may
My self and dear retirement still
enjoy :
Let not my *Life* or *Name* be
known unto
The *Grandees* of the *Time*, to't
too and fro

By

Sir Matthew Hale. 107

By *Censures* or *Applause*; but let
my *Age*

Slide gently *by*, not *overthwart* the
Stage

Of *publick Action*, unheard, unseen,
And unconcern'd, as if I near had
been.

And thus, while I shall pass my
silent days

In *shady privacy*, free from the
Noise

And *bustles* of the mad World,
then shall I

A good old *Innocent Plebeian* Die.
Death is a mere *Surprise*, a very
Snare

To him, that makes it his *Lifes*
greatest Care

To be a *publick Pageant*, known to all,
But *unacquainted* with himself,
doth fall.

Having

108 *The Life and Death of*

Having now attained to that Privacy, which he had no less seriously than piously wished for, he called all his Servants that had belonged to his Office together, and told them, *he had now laid down his Place, and so their Employments were determined*; upon that, he advised them to see for themselves, and gave to some of them very considerable Presents, and to every one of them a Token, and so dismissed all those that were not his Domesticks: He was discharged the fifteenth of February, 167 $\frac{5}{8}$; And lived till the Christmas following, but all the while was in so ill a State of Health, that there was no hopes of his Recovery: he continued still to retire often, both for his Devotions and Studies, and as long as he could go, went constantly

Sir Matthew Hale. 109

stantly to his Cloſſet, and when his Infirmities encreaſed on him, ſo that he was not able to go thither himſelf, he made his Servants carry him thither in a Chair. At laſt, as the Winter came on, he ſaw with great Joy his deliverance approaching, for beſides his being *weary* of the World, and his *longings* for the Bleſſedneſs of another State, his Pains encreaſed ſo on him, that no Patience inferiour to his could have born them without a great uneaſineſs of mind; yet he expreſſed to the laſt ſuch *ſubmiſſion* to the will of God, and ſo *equal* a Temper under them, that it was viſible then what *mighty Effects* his Philoſophy and Chriſtianity had on him, in ſupporting him under ſuch a heavy Load.

He could not lie down in Bed
above

110 *The Life and Death of*
above a Year before his Death ,
by reason of the *Asthma* , but sat,
rather than lay in it.

He was attended on in his Sick-
ness, by a Pious and Worthy Di-
vine Mr. *Evan Griffith*, Minister
of the Parish ; and it was observed
that in all the Extremities of his
Pain, when ever he Prayed by
him, he forbore all Complaints
or Groans, but with his Hands
and Eyes lifted up, was fixed in
his Devotions : Not long before
his Death, the Minister told him,
there was to be a Sacrament next
Sunday at Church , but he believed
he could not come and partake with
the rest ; therefore he would give it
to him in his own House : But he
answered, No ; his Heavenly Father
had prepared a Feast for him , and
he would go to his Fathers House to
partake of it : So he made himself
be

Sir Matthew Hale. III

be carried thither in his Chair, where he received the Sacrament on his Knees, with great Devotion, which it may be supposed was the greater, because he apprehended it was to be his Last, and so took it as his *Viaticum* and Provision for his Journey. He had some secret unaccountable Presages of his Death, for he said, *that if he did not Die on such a day,* (which fell to be the 25th. of November) *he believed he should Live a Month longer,* and he Died that very day Month. He continued to enjoy the free use of his Reason and Sence to the last Moment, which he had often and earnestly Prayed for during his Sickness: And when his Voice was so sunk that he could not be heard, they perceived by the almost constant lifting up of his

112 *The Life and Death of*

his Eyes and Hands, that he was still Aspiring towards that Blessed State, of which he was now speedily to be possessed.

He had for many years a particular Devotion for *Christmas day*, and after he had received the Sacrament, and been in the performance of the publick Worship of that day, he commonly wrote a Copy of Verses on the Honour of his Saviour, as a fit Expression of the Joy he felt in his Soul, at the return of that Glorious Anniversary. There are Seventeen of those Copies Printed, which he Writ on Seventeen several *Christmas days*, by which the World has a Taste of his Poetical Genius, in which, if he had thought it worth his time to have Excelled, he might have been Eminent as well as in other things ;

Sir Matthew Hale. 113

things ; but he Writ them rather to entertain himself, than to merit the Lawrel.

I shall here add one which has not been yet Printed, and it is not unlikely it was the last he Writ ; it is a Paraphrase on Simeon's Song ; I take it from his blotted Copy not at all finished, so the Reader is to make Allowance for any Imperfection he may find in it.

*Blessed Creator, who before the Birth
Of Time, or e're the Pillars of the Earth
Were fix't or form'd, did'st lay that
great Design*

*Of Man's Redemption, and did'st define
In thine Eternal Councils all the Scene
Of that stupendious Business, and when
It should appear, and though the very
day*

Of its Epiphany, concealed lay

I

With

114 *The Life and Death of*
Within thy mind, yet thou wert pleas'd
to show

Some glimpses of it, unto Men below,
In Visions, Types, and Prophecies,
as we

Things at a distance in Perspective see :
But thou wert pleas'd to let thy Ser-
vant know

That that Blest hour, that seem'd to
move so slow

Through former Ages, should at last
attain

Its time, e're my few Sands, that
yet remain

Are spent ; and that these Aged Eyes
Should see the day, when Jacob's Star
should rise.

And now thou hast fulfill'd it, blessed
Lord

Dismiss me now, according to thy word ;
And let my Aged Body now return
To Rest, and Dust, and drop into
an Urn ;

For

Sir Matthew Hale. 115

For I have liv'd enough, mine Eyes
have seen

Thy much desired Salvation, that hath
been

So long, so dearly wish'd, the Joy; the
Hope

Of all the Ancient Patriarchs, the Scope
Of all the Prophecies, and Mysteries,
Of all the Types unvail'd, the Histories
Of Jewish Church unriddl'd, and the
bright

And Orient Sun arisen to give light
To Gentiles, and the joy of Israel,
The Worlds Redeemer, blest Emanuel.
Let this sight close mine Eyes, 'tis loss
to see,

After this Vision, any sight but Thee.

Thus he used to Sing on the
former Christmas-days, but now
he was to be admitted to bear his
part in the new Songs above; so
that day which he had spent in

116 *The Life and Death of*
so much Spiritual Joy, proved to
be indeed the day of his Jubilee
and Deliverance, for between
two and three in the Afternoon,
he breathed out his Righteous and
pious Soul. His End was Peace,
he had no struglings, nor seem'd
to be in any pangs in his last Mo-
ments. He was Buried on the
4th. of January, Mr. Griffith Preach-
ing the Funeral Sermon, his
Text was the 57 of Isa. 1 verse.
*The Righteous perisheth, and no Man
layeth it to heart; and Merciful
Men are taken away, none conside-
ring that the Righteous is taken away
from the Evil to come. Which how
fitly it was applicable upon this
occasion, all that consider the
course of his Life, will easily
conclude. He was Interred in
the Church-yard of Alderly, a-
mong his Ancestors; he did not
much*

Sir Matthew Hale. 117

much approve of Burying in Churches, and used to say *the Churches were for the Living, and the Church-yards for the Dead.* His Monument was like himself, decent and plain, the Tomb-stone was black Marble, and the sides were black and white Marble, upon which he himself had ordered this bare and humble Inscription to be made,

HIC INHUMATUR CORPUS
MATTHEI HALE, MILITIS;
ROBERTI HALE, ET JOANNÆ,
UXORIS EJUS, FILII UNICI.
NATI IN HAC PAROCHIA DE
ALDERLY, PRIMO DIE NOVEMBRIS,
ANNO DOM. 1609.
DENATI VERO IBIDEM VICESIMO
QUINTO DIE DECEMBRIS,
ANNO DOM. 1676.
ÆTATIS SUÆ, LXVII.

118 *The Life and Death of*

Having thus given an Account of the most remarkable things of his Life, I am now to present the Reader with such a Character of Him, as the laying his several Virtues together will amount to : in which I know how difficult a Task I undertake, for to Write defectively of Him, were to injure Him, and lessen the Memory of one to whom I intend to do all the Right that is in my Power : On the other hand, there is so much here to be commended, and proposed for the Imitation of others, that I am affraid some may imagin, I am rather making a Picture of Him, from an abstracted *Idea* of great Virtues, and Perfections, than setting him out, as he truly was : But there is great Encouragement in this, that I Write concerning

Sir Matthew Hale. 119

a Man so fresh in all peoples Remembrance, that is so lately Dead, and was so much and so well known, that I shall have many Vouchers, who will be ready to justifie me in all that I am to relate, and to add a great deal to what I can say.

It has appeared in the Account of his various Learning, how great his Capacities were, and how much they were improved by constant Study : He rose always early in the Morning, he loved to walk much abroad, not only for his Health, but he thought it opened his Mind, and enlarged his thoughts to have the Creation of God before his Eyes. When he set himself to any Study, he used to cast his design in a Scheme, which he did with a great exactness of Method; he took

120 *The Life and Death of*
nothing on Trust, but pursued
his Enquires as far as they could
go, and as he was humble enough
to confess his Ignorance, and sub-
mit to Mysteries which he could
not comprehend, so he was not
easily imposed on, by any shews
of Reason, or the Bugbears of
vulgar Opinions: He brought all
his Knowledge as much to sci-
entifical Principles, as he possibly
could, which made him neglect
the Study of Tongues, for the
bent of his Mind lay another
way. Discourfing once of this
to fome, they faid, *they looked on*
the Common Law, as a Study that
could not be brought into a Scheme,
nor formed into a Rational Science,
by reason of the Indigestedness of it,
and the Multiplicity of the Cases
in it, which rendered it very hard to
be understood, or reduced into a Me-
thod;

Sir Matthew Hale. 121

thod; But he said, he was not of their mind, and so quickly after, he drew with his own hand, a Scheme of the whole Order and Parts of it, in a large sheet of Paper, to the great Satisfaction of those to whom he sent it. Upon this hint, some pressed him to Compile a Body of the English Law; It could hardly ever be done by a Man who knew it better, and would with more Judgment and Industry have put it into Method; But he said, as it was a Great and Noble Design, which would be of vast Advantage to the Nation; so it was too much for a private Man to undertake: It was not to be Entred upon, but by the Command of a Prince, and with the Communicated Endeavours of some of the most Eminent of the Profession.

He

122 *The Life and Death of*

He had great vivacity in his Fancy, as may appear by his Inclination to Poetry, and the lively Illustrations, and many tender strains in his Contemplations; But he look't on Eloquence and Wit, as things to be used very chastly, in serious Matters, which should come under a severer Inquiry: Therefore he was both, when at the Bar, and on the Bench, a great Enemy to all Eloquence or Rhetorick in Pleading: He said, if the Judge or Jury had a right understanding, it signified nothing, but a waste of Time, and loss of words; and if they were weak, and easily wrought on, it was a more decent way of corrupting them, by bribing their Fancies, and biassing their Affections; And wondered much at that affectation of the French Lawyers in imitating the
Roman

Sir Matthew Hale. 123

Roman Orators in their Pleadings. For the Oratory of the *Romans*, was occasioned by their popular Government, and the Factions of the *City*, so that those who intended to excell in the Pleading of Causes, were trained up in the Schools of the *Rhetors*, till they became ready and expert in that luscious way of Discourse. It is true, the Composures of such a Man as *Tully* was, who mixed an extraordinary Quickness, an exact Judgement, and a just Decorum with his skill in *Rhetorick*, do still entertain the Readers of them with great Pleasure : But at the same time, it must be acknowledged, that there is not that chastity of Style, that closeness of Reasoning, nor that justness of Figures in his *Orations*, that is in his other Writings; So that

124 *The Life and Death of*

a great deal was said by him, rather because he knew it would be acceptable to his Auditors, than that it was approved of by himself; and all who read them, will acknowledg, they are better pleased with them as *Essays of Wit and Style*, than as *Pleadings*, by which such a Judge as ours was, would not be much wrought on. And if there are such Grounds to censure the performances of the greatest Master in Eloquence, we may easily infer what nauseous Discourses the other Orators made, since in *Oratory* as well as in *Poetry*, none can do *Indifferently*. So our Judge wondred to find the *French*, that live under a *Monarchy*, so fond of imitating that which was an ill Effect of the *Popular Government of Rome*: He therefore pleaded him-

Sir Matthew Hale. 125

himself always in few words, and home to the Point: And when he was a *Judge*, he held those that Plead before him, to be the main Hinge of the Business, and cut them short when they made Excursions about Circumstances of no Moment, by which he saved much time, and made the cheif Difficulties be well Stated and Cleared.

There was another *Custom* among the *Romans*, which he as much admired, as he despised their *Rhethorick*, which was, that the *Juris-Consults* were the Men of the highest Quality, who were bred to be capable of the cheif Imployment in the State, and became the great Masters of their Law: These gave their opinions of all Cases that were put to them

126 *The Life and Death of*
them freely, judging it below
them to take any present for it;
And indeed they were only
the true Lawyers among them,
whose Resolutions were of that
Authority, that they made one
Classis of those *Materials* out of
which *Trebonian* compiled the
Digests under *Justinian*; for the
Orators or *Causidici* that Plead
Causes, knew little of the Law,
and only employed their merce-
nary Tongues, to work on the
Affections of the People and Se-
nate or the Pretors: Even in
most of *Tullies Orations* there is
little of Law, and that little
which they might sprinkle in
their Declamations, they had
not from their own Knowledg,
but the Resolution of some *Ju-
ris-Consult*: According to that fa-
mous Story of *Servius Sulpitius*,
who

Sir Matthew Hale. 127

who was a Celebrated Orator, and being to receive the Resolution of one of those that were Learned in the Law, was so Ignorant, that he could not understand it; Upon which the *Juris-Consult* reproached him, and said, *it was a shame for him that was a Nobleman, a Senator, and a Pleader of Causes, to be thus Ignorant of Law*: This touched him so sensibly, that he set about the Study of it, and became one of the most Eminent *Juris-Consults* that ever were at Rome. Our Judge thought it might become the greatness of a Prince, to encourage such a sort of Men, and of Studies; in which, none in the Age he lived in was equal to the great Selden, who was truly in our *English Law*, what the old Roman *Juris-Consults* were in theirs.

But

128 *The Life and Death of*

But where a decent Eloquence was allowable, *Judge Hale* knew how to have excelled as much as any, either in illustrating his Reasonings, by proper and well pursued Similies, or by such tender expressions, as might work most on the Affections, so that the present *Lord Chancellor*, has often said of him since his Death, *that he was the Greatest Orator he had known*; for though his words came not fluently from him, yet when they were out, they were the most Significant, and Expressive, that the Matter could bear: Of this sort there are many in his *Contemplations* made to quicken his own Devotion, which have a Life in them becoming him that used them, and a softness fit to melt even the harshest Tempers, accommodated to the Gravity of the

the

Sir Matthew Hale. 129

the Subject, and apt to excite warm thoughts in the Readers, that as they shew his excellent Temper that brought them out, and applied them to himself, so they are of great use to all, who would both Inform and quicken their Minds. Of his Illustrations of things by proper Similies, I shall give a large instance out of his Book of the *Origination of Mankind*, designed to expose the several different *Hypotheses* the Philosophers tell on, concerning the *Eternity* and *Original* of the *Universe*, and to prefer the *Account* given by *Moses*, to all their *Conjectures*; in which, if my Taste does not misguide me, the Reader will find a rare and very agreeable mixture, both of fine Wit, and solid Learning and Judgment.

K

[That

130 *The Life and Death of*

[That which may illustrate my Meaning, in this preference of the *revealed Light* of the *Holy Scriptures*, touching this Matter, above the *Essays* of a *Philosophical Imagination*, may be this. Suppose that *Greece* being unacquainted with the Curiosity of Mechanical Engins, though known in some remote Region of the World, and that an excellent Artist had secretly brought and deposited in some Field or Forest, some excellent Watch or Clock, which had been so formed, that the Original of its Motion were Hidden, and Involved in some close contrived piece of Mechanism, that this Watch was so framed, that the Motion thereof might have lasted a Year, or some such time as might give a reasonable Period for their Philosophical de-

Sir Matthew Hale. 131

descanting concerning it, and that in the plain Table there had been not only the Discription and Indication of Hours, but the Configurations and Indications of the various Phases of the Moon, the motion and place of the Sun in the Ecliptick, and divers other curious Indications of Celestial Motions, and that the Scholars of the several Schools, of *Epicurus*, of *Aristotle*, of *Plato*, and the rest of those Philosophical Sects, had casually in their Walk, found this Admirable *Automaton*; what kind of Work would there have been made by every Sect, in giving an account of this Phenomenon? We should have had the *Epicurean* Sect, have told the By-standers according to their preconceived Hypothesis, *that this was nothing else but an accidental concre-*

132 *The Life and Death of*
tion of Atoms, that happily fallen together had made up the Index, the Wheels, and the Ballance, and that being happily fallen into this Posture, they were put into Motion. Then the Cartesian falls in with him, as to the main of their Supposition, but tells him, that he doth not sufficiently explicate how the Engin is put into Motion, and therefore to furnish this Motion, there is a certain Materia Subtilis that pervades this Engin, and the Moveable parts, consisting of certain Globular Atoms apt for Motion, they are thereby, and by the Mobility of the Globular Atoms put into Motion. A Third finding fault with the two former, because those Motions are so regular, and do express the various Phenomena of the distribution of Time, and of the Heavenly Motions; therefore it seems to him, that this Engin

Sir Matthew Hale. 133

gin and Motion also, so Analogical to the Motions of the Heavens, was wrought by some admirable conjunction of the Heavenly Bodies, which formed this Instrument and its Motions, in such an admirable Correspondency to its own Existence. A Fourth, disliking the suppositions of the three former, tells the rest, that he hath a more plain and evident Solution of the Phenomenon, namely, The universal Soul of the World, or Spirit of Nature, that formed so many sorts of Insects with so many Organs, Faculties, and such congruity of their whole composition, and such curious and various Motions as we may observe in them, hath formed and set into Motion this admirable Automaton, and regulated and ordered it, with all these congruities we see in it. Then steps in an Aristotelian, and being dissatis-

134 *The Life and Death of*
fied with all the former Solutions, tells them, Gentlemen, you are all mistaken, your Solutions are Inexplicable and Unsatisfactory, you have taken up certain precarious Hypotheses, and being prepossessed with these Creatures of your own fancies, and in love with them, right or wrong, you form all your Conceptions of things according to those fancied and preconceived Imaginations. The short of the Business is, this Machina is eternal, and so are all the Motions of it, and in as much as a Circular Motion hath no beginning or end, this Motion that you see both in the Wheels and Index, and the successive Indications of the Celestial Motions, is eternal, and without beginning. And this is a ready and expedite way of solving the Phenomena, without so much ado as you have made about it.

And

Sir Matthew Hale. 135

And whilst all the Masters were thus contriving, the Solution of the *Phenomenon*, in the hearing of the Artist that made it, and when they had all spent their Philosophizing upon it, the Artist that made this Engin, and all this while listned to their admirable Fancies, tells them, *Gentlemen*, you have discovered very much Excellency of Invention touching this piece of Work that is before you, but you are all miserably mistaken: for it was I that made this Watch, and brought it hither, and I will shew you how I made it. First, I wrought the Spring, and the Fusee, and the Wheels, and the Ballance, and the Case, and Table; I fitted them one to another, and placed these several Axes that are to direct the Motions, of the Index to discover the hour of the Day, of the Figure that

136 *The Life and Death of*
discovers the Phases of the Moon, and
the other various Motions that you
see; and then I put it together, and
wound up the Spring, which hath
given all these Motions, that you see
in this curious piece of Work, and
that you may be sure I tell you true,
I will tell you the whole Order and
Progress of my making, disposing and
ordering of this piece of Work; the
several Materials of it, the manner
of the forming of every individual
part of it, and how long I was a-
bout it. This plain and evident
discovery renders all these ex-
cogitated *Hypotheses* of those Phi-
losophical *Enthusiasts* vain and
ridiculous, without any great
help of Rhetorical flourishes, or
Logical confutations. And much
of the same nature is that dispa-
rity of the *Hypotheses* of the learn-
ed Philosophers in relation to the
Ori-

Sir Matthew Hale. 137

Origination of the World and Man, after a great deal of dust raised, and fanciful Explications and untelligible *Hypotheses*. The plain, but Divine Narrative by the hand of *Moses*, full of Sence, and Congruity, and clearness, and Reasonableness in it self, does at the same Moment give us a true and clear discovery of this great Mystery, and renders all the Essays of the generality of the Heathen Philosophers to be vain, Inevident, and indeed inexplicable Theories, the Creatures of Phantasie, and Imagination, and nothing else.]

As for his *Virtues*, they have appeared so Conspicuous in all the several Transactions and turns of his Life, that it may seem needless to add any more of them, than has been already related,
but

138 *The Life and Death of*

but there are many particular Instances which I knew not how to fit to the several Years of his Life, which will give us a clearer and better view of him.

He was a devout Christian, a sincere Protestant, and a true Son of the Church of England; moderate towards Dissenters, and just even to those from whom he differed most; which appeared signally in the care he took of preserving the Quakers, from that mischeif that was like to fall on them, by declaring their Marriages void, and so bastarding their Children; but he considered Marriage and Succession as a right of Nature, from which none ought to be barred, what mistake soever they might be under, in the points of revealed Religion.

And

Sir Matthew Hale. 139

And therefore in a Trial that was before him, when a *Quaker* was sued for some Debts owing by his Wife before he Married her, and the *Quakers* Council pretended, that it was no Marriage that had past between them, since it was not Solemnised according to the Rules of the Church of England; he declared, that he was not willing on his own opinion to make their Children Bastards, and gave directions to the Jury to find it *special*. It was a reflection on the whole Party, that one of them to avoid an Inconvenience he had fallen in, thought to have preserved himself by a defence, that if it had been allowed in Law, must have made their whole issue Bastards, and incapable of Succession, and for all their pretended friendship to one another, if this Judge had
not

140 *The Life and Death of*
not been more their friend, than
one of those they so called, their
Posterity had been little behold-
ing to them. But he governed
himself indeed by the Law of the
Gospel, of *doing to others, what he*
would have others do to him; and
therefore because he would have
thought it a *hardship* not without
Cruelty, if amongst *Papists* all Mar-
riages were nulled which had not
been made with all the Ceremo-
nies in the *Roman Ritual*, so he
applying this to the case of the
Sectaries, he thought all Marria-
ges made according to the seve-
ral perswasions of Men, ought
to have their Effects in Law.

He used constantly to worship
God in his Family, performing
it always himself, if there was
no Clergy-man present: But as
to his *private Exercises* in devo-
tion,

Sir Matthew Hale. 141

tion, he took that extraordinary care to keep what he did secret, that this part of his Character must be defective, except it be acknowledged that his Humility in covering it, commends him much more than the highest expressions of Devotion could have done.

From the first time that the Impressions of Religion settled deeply in his Mind, He used great caution to conceal it: not only in obedience to the Rules given by our Saviour, of *Fasting, Praying, and giving Alms in Secret*; but from a particular distrust he had of himself, for he said he was affraid, he should at some time or other, do some enormous thing, which if he were look't on as a very Religious Man, might cast a reproach on the pro-

142 *The Life and Death of*

profession of it, and give great advantages to impious Men, to blaspheme the name of God: *But a Tree is known by its Fruits,* and he lived not only free of Blemishes, or Scandall, but shined in all the parts of his Conversation: and perhaps the *distrust* he was in of himself, contributed not a little to the *Purity* of his Life, for he being thereby obliged to be more Watchful over himself, and to depend more on the aids of the Spirit of God, no wonder if that humble temper produced those excellent Effects in him.

He had a Soul enlarged and raised above that mean appetite of *loving Money*, which is generally the *root of all Evil*. He did not take the *profits* that he might have had by his *Practice*: for in
com-

Sir Matthew Hale. 143

common Cases, when those who came to ask his Council gave him a Piece, he used to give back the half, and so made Ten shillings his Fee, in ordinary Matters that did not require much time or Study: If he saw a Cause was *Unjust*, he for a great while would not meddle further in it, but to give his Advice that *it was so*; If the Parties after that, would go on, they were to seek another Councillor, for he would Assist none in Acts of Injustice: If he found the Cause *doubtful* or *weak* in point of Law, he always advised his Clients to *agree their Business*: Yet afterwards he abated much of the Scrupulosity he had about Causes that appeared at *first view* Unjust, upon this occasion: There were two Causes brought to him, which by the
igno-

144 *The Life and Death of*
ignorance of the Party or their
Attorney, were so ill represented
to him, that they *seem'd* to be *very*
bad, but he enquiring more nar-
rowly into them, found they
were *really very good and just*; So
after this he slackned much of
his former Strictness, of refusing
to meddle in Causes upon the ill
Circumstances that appear'd in
them at first.

In his pleading he abhorred
those too common faults of *mis-*
reciting Evidences, *quoting* Presi-
dents, or Books *falsly*, or *assert-*
ing things *Confidently*; by which
ignorant Juries, or *weak* Judges,
are too often wrought on. He
Pleaded with the same sincerity
that he used in the other parts
of his Life, and used to say it
was as great a dishonour as a Man
was capable of, that for a little Mo-
ney

Sir Matthew Hale. 145

ney he was to be hired to say or do otherwise than as he thought: All this he ascribed to the unmeasurable desire of heaping up Wealth, which corrupted the Souls of some that seem'd to be otherwise born and made for great things.

When he was a Practitioner, differences were often referr'd to him, which he settled, but would accept of no reward for his Pains, though offered by both Parties together, after the agreement was made; for he said in those cases he was made a Judge, and a Judge ought to take no Money. If they told him, he lost much of his time in considering their Business, and so ought to be acknowledged for it; his answer was, (as one that heard it told me,) Can I spend my Time better, than to make People friends, must I have no
L time

146 *The Life and Death of*
time allowed me to do good
in.

He was naturally a quick man, yet by much Practise on himself, he subdued that to such a degree, that he would never run suddenly into any Conclusion concerning any Matter of Importance. *Festina lente* was his beloved Motto, which he ordered to be Ingraven on the Head of his Staff, and was often heard say, that he had observed many witty Men run into great Errours, because they did not give themselves time to think, but the heat of Imagination making some Notions appear in good Colours to them, they without staying till that cooled, were violently led by the Impulses it made on them, whereas calm and slow Men, who pass for dull in the common estimation, could search after Truth and find.

Sir Matthew Hale. 147

*find it out, as with more deliberation,
so with greater certainty.*

He laid aside the *tenth penny* of all he got for the Poor, and took great care to be well informed of *proper Objects* for his Charities; And after he was a Judge, many of the Perquisites of his Place, as his Dividend of the Rule and Box-money, was sent by him to the Jayls to discharge poor Prisoners, who never knew from whose hands their Releif came. It is also a Custom for the Marshall of the *Kings-Bench*, to present the Judges of that Court with a piece of Plate for a *New-years-gift*, that for the Cheif Justice being larger than the rest: This he intended to have refused, but the other Judges told him it belonged to his Office, and the refusing it

148 *The Life and Death of*
would be a prejudice to his Successors, so he was perswaded to take it, but he sent word to the Marshall, *that instead of Plate, he should bring him the value of it in Money*, and when he received it, he immediately sent it to the Prisons, for the Releif and discharge of the poor there. He usually invited his poor Neighbours to Dine with him, and made them sit at Table with himself: And if any of them were Sick, so that they could not come, he would send Meat warm to them from his Table: and he did not only releive the Poor in his own Parish, but sent Supplies to the Neighbouring Parishes, as there was occasion for it: And he treated them all with the tenderness and familiarity that became one, who considered
they

Sir Matthew Hale. 149

they were of the *same Nature* with *himself*, and were reduced to no other *Necessities* but such as he himself might be brought to: But for common Beggars, if any of these came to him, as he was in his Walks, when he lived in the Country, he would ask such as were Capable of Working, *why they went about so idly*; If they answered, *it was because they could find no Work*, he often sent them to some Field, to gather all the Stones in it, and lay them on a Heap, and then would pay them liberally for their Pains: This being done, he used to send his Carts, and caused them to be carried to such places of the Highway as needed mending.

But when he was in Town, he dealt his Charities very liberally, even among the Street-

L 3 Beg-

150 *The Life and Death of*
Beggars, and when some told
him, that he thereby incouraged Idle-
ness, and that most of these were no-
torious Cheats, he used to answer,
that he beleived most of them were
such, but among them there were
some that were great Objects of Cha-
rity, and press'd with greivous Ne-
cessities: and that he had rather give
his Alms to twenty who might be per-
haps Rogues, than that one of the
other sort, should perish for want
of that small Relief which he gave
them.

He loved Building much,
which he affected chiefly because
it imployed many poor People;
but one thing was observed in all
his Buildings, that the changes
he made in his Houses, was al-
ways from Magnificence to Use-
fulness, for he avoided every
thing that looked like Pomp or
Vanity,

Sir Matthew Hale. 151

Vanity, even in the Walls of his Houses ; he had good Judgement in *Architecture*, and an excellent faculty in contriving well.

He was a *Gentle Landlord* to all his Tenants, and was ever ready upon any reasonable Complaints, to make Abatements, for he was *Merciful* as well as *Righteous*. One instance of this was, of a Widow that lived in *London*, and had a small Estate near his House in the Country ; from which her Rents were ill Returned to her, and at a Cost which she could not well bear : so she bemoaned her self to him, and he according to his readiness to assist all poor People, told her, *he would order his Steward to take up her Rents, and the returning them should cost her nothing.* But after that, when there was a falling of

152 *The Life and Death of*
Rents in that Country, so that
it was necessary to make abatements to the Tenant; yet he
would have it to lie on himself,
and made the Widow be paid
her Rent as formerly.

Another remarkable instance of
his *Justice* and *goodness* was, that
when he found ill Money had
been put into his hands, he would
never suffer it to be vented again;
for he thought it was no excuse
for him to put false Money in
other Peoples hands, because
some had put it in his: A
great heap of this he had gathered
together, for many had so
far abused his Goodness, as to
mix base Money among the Fees
that were given him: It is like
he intended to have destroyed
it, but some Thieves who had
observed it, broke into his Chamber

Sir Matthew Hale. 153

ber and stole it, thinking they had got a Prize; which he used to tell with some pleasure, imagining how they found themselves deceived, when they perceived what sort of Booty they had fall'n on.

After he was made a Judge, he would needs pay more for every Purchase he made than it was worth; If it had been but a Horse he was to Buy, he would have out-bid the Price: and when some represented to him, *that he made ill Bargains*, he said; *it became Judges to pay more for what they bought, than the true Value; that so those with whom they dealt, might not think they had any right to their favour, by having sold such things to them at an easie rate: and said it was futable to the Reputation, which a Judge ought to preserve,*

154 *The Life and Death of*
serve, to make such Bargains,
that the World might see they
were not too well used upon
some secret Account.

In Sum, his Estate did shew
how little he had minded the
raising a great Fortune, for from
a Hundred pound a Year, he
raised it not quite to Nine Hun-
dred, and of this a very Conside-
rable part came in by his share
of Mr. Selden's Estate; yet this,
considering his great Practice
while a Counsellour, and his con-
stant, frugal, and modest way of
Living, was but small a Fortune:
In the share that fell to him by
Mr. Selden's Will, one memo-
rable thing was done by him,
with the other Executors, by
which they both shewed their
regard to their dead Friend, and
their Love of the Publick; His
Li-

Sir Matthew Hale. 155

Library was valued at some Thousands of pounds, and was believed to be one of the curious Collections in Europe : so they resolved to keep this intire, for the Honour of *Selden's* Memory, and gave it to the *University of Oxford*, where a noble Room was added to the former Library for its Reception, and all due respects have been since shewed by that Great and Learned Body, to those their worthy Benefactors, who not only parted so generously with this great Treasure, but were a little put to it how to oblige them, without crossing the Will of their dead Friend. Mr. *Selden* had once intended to give his Library to that University, and had left it so by his Will ; but having occasion for a Manuscript, which belonged

156 *The Life and Death of*

longed to their Library, they asked of him a Bond of a Thousand pound for its Restitution; this he took so ill at their hands, that he struck out that part of his Will by which he had given them his Library, and with some passion declared *they should never have it*: The Executors stuck at this a little, but having considered better of it, came to this Resolution; That they were to be the Executors of Mr. Selden's Will, and not of his Passion; so they made good what he had intended in cold Blood, and past over what his Passion had suggested to him.

The parting with so many excellent Books, would have been as uneasie to our Judge, as any thing of that nature could be, if a pious regard to his friends

Me.

Sir Matthew Hale. 157

Memory had not prevailed over him; for he valued *Books* and *Manuscripts* above all things in the World: He himself had made a great and rare Collection of *Manuscripts* belonging to the Law of England; he was Forty years in gathering it: He himself said it cost him about fifteen Hundred pounds, and calls it in his Will, a *Treasure worth having and keeping, and not fit for every Mans view*; These all he left to *Lincoln's Inn*, and for the Information of those who are curious to search into such things; there shall be a Catalogue of them added at the end of this Book.

By all these instances it does appear, how much he was raised above the World, or the love of it. But having thus mastered things without him, his next
Study

158 *The Life and Death of*

Study was to overcome his own Inclinations: He was as he said himself *naturally passionate*; I add, *as he said himself*, for that appeared by no other Evidence, save that sometimes his Colour would rise a little; but he so governed himself, that those who lived long about him, have told me they never saw him disordered with Anger, though he met with some Tryals, that the nature of Man is as little able to bear, as any whatsoever. There was one who did him a great Injury, which it is not necessary to mention, who coming afterwards to him for his Advice in the settlement of his Estate, he gave it very frankly to him, but would accept of no Fee for it, and thereby shewed both that he could forgive as a Christian, and that he

Sir Matthew Hale. 159

he had the Soul of a Gentleman in him, not to take Money of one that had wronged him so heinously. And when he was asked by one, *how he could use a Man so kindly, that had wronged him so much*, his Answer was, *he thanked God he had learned to forget Injuries*. And besides the great temper he expressed in all his publick Employments, in his Family he was a very gentle Master: He was tender of all his Servants, he never turned any away, except they were so faulty, that there was no hope of reclaiming them: When any of them had been long out of the way, or had neglected any part of their Duty; he would not see them at their first coming home, and sometimes not till the next day, least when his displeasure was
quick

160 *The Life and Death of*

quick upon him, he might have chid them indecently ; and when he did reprove them, he did it with that sweetness and gravity, that it appeared he was more concerned for their having done a fault, than for the Offence given by it to himself: But if they became immoral or unruly, then he turned them away , for he said, *he that by his place ought to punish disorders in other People, must by no means suffer them in his own House* : He advanced his Servants according to the time they had been about him, and would never give occasion to Envy among them, by raising the younger Clerks above those who had been longer with him. He treated them all with great affection, rather as a Friend, than a Master, giving them often good Advice

Sir Matthew Hale. 161

Advice and Instruction. He made those who had good places under him, give some of their profits to the other Servants who had nothing but their Wages: When he made his Will, he left Legacies to every one of them; But he expressed a more particular kindness for one of them *Robert Gibbon*, of the *middle Temple*, Esq; In whom he had that Confidence, that he left him one of his Executors. I the rather mention him, because of his noble Gratitude to his worthy Benefactor and Master, for he has been so careful to preserve his Memory, that as he set those on me, at whose desire I undertook to write his Life; So he has procured for me a great part of those Memorials, and Informations, out of which I have Composed it.

it. M The

162 *The Life and Death of*

The *Judge* was of a most tender and compassionate Nature; this did eminently appear in his Trying and giving Sentence upon Criminals, in which he was strictly careful, that not a circumstance should be neglected, which might any way clear the Fact: He behaved himself with that regard to the Prisoners, which became both the gravity of a *Judge*, and the pity that was due to Men, whose Lives lay at Stake, so that nothing of jearing or unreasonable severity ever fell from him. He also examined the Witnesses in the softest manner, taking care that they should be put under no Confusion, which might disorder their Memory: and he Summed all the Evidence so equally when he charged the Jury, that the Criminals them-

Sir Matthew Hale. 163

themselves never complained of him. When it came to him to give Sentence, he did it with that Composedness and Decency, and his Speeches to the Prisoners, directing them to prepare for Death, were so Weighty, so free of all Affectation, and so Serious and Devout, that many loved to go to the Tryals, when he sat *Judg.* to be edified by his Speeches, and behaviour in them, and used to say, *they heard very few such Sermons.*

But though the pronouncing the Sentence of Death, was the peece of his Imployment, that went most against the Grain with him; yet in that, he could never be molified to any tenderness which hindred Justice. When he was once pressed to recommend some (whom he had Condemn-

164 *The Life and Death of*

ed) to his *Majesties* Mercy and Pardon; he answered *he could not think they deserved a Pardon, whom he himself had Adjudged to Die*: So that all he would do in that kind, was to give the King a true Account of the Circumstaues of the Fact, after which; his *Majesty* was to Consider whether he would interpose his Mercy, or let Justice take place.

His Mercifulness extended even to his Beasts, for when the Horses that he had kept long, grew Old, he would not suffer them to be Sold, or much Wrought, but ordered his Men to turn them loose on his Grounds, and put them only to easie work, such as going to Market and the like; he used old Dogs also with the same care: His Shepherd having one that was become blind with Age,

Sir Matthew Hale. 165

Age, he intended to have killed or lost him, but the *Judge* coming to hear of it, made one of his Servants bring him home and fed him till he Died: And he was scarce ever seen more Angry than with one of his Servants for neglecting a Bird, that he kept, so that it Died for want of Food.

He was a great encourager of all young Persons, that he saw followed their Books diligently, to whom he used to give directions concerning the method of their Study, with a humanity and sweetness, that wrought much on all that came near him: and in a smiling pleasant way, he would admonish them, If he saw any thing amiss in them: particularly if they went too fine in their Clothes, he would tell

166 *The Life and Death of*
them, it did not become their *Profession*: He was not pleased to see Students wear long Perriwigs, or Attorneys go with Swords; so that such young Men as would not be perswaded to part with those Vanities, when they went to him laid them aside, and went as plain as they could, to avoid the reproof which they knew they might otherwise expect.

He was very free and communicative in his Discourse, which he most commonly fixed on some good and useful Subject, and loved for an Hour or two at Night, to be visited by some of his Friends. He neither said nor did any thing with Affectation, but used a simplicity, that was both natural to himself, and very easie to others: And
though

Sir Matthew Hale. 167

though he never studied the modes of Civility or Court breeding, yet he knew not what it was to be rude or harsh with any, except he were impertinently addressed to in matters of Justice, then he would raise his Voice a little, and so shake off those Importunities.

In his Furniture, and the service of his Table, and way of Living; he liked the old plainness so well, that as he would set up none of the new Fashions, so he rather affected a Courteseness in the use of the old ones: which was more the effect of his Philosophy than disposition, for he loved fine things too much at first: He was always of an equal Temper, rather chearful than merry. Many wondered to see the evenness of

168 *The Life and Death of*
his deportment, in some very
sad passages of his Life.

Having lost one of his Sons,
the manner of whose Death had
some grievous circumstances in
it; One coming to see him and
Condole, he said to him, *those*
were the effects of living long, such
must look to see many sad and un-
acceptable things; and having said
that, he went to other Dis-
courses, with his ordinary free-
dom of Mind; for though he
had a Temper so tender, that sad
things were apt enough to make
deep Impressions upon him, yet
the regard he had to the Wis-
dom and providence of God,
and the just Estimate he made
of all Eternal things, did to ad-
miration maintain the tranquili-
ty of his Mind, and he gave no
occasion by idleness to Melan-
cholly

Sir Matthew Hale. 169

cholly to corrupt his Spirit, but by the perpetual bent of his thoughts, he knew well how to divert them from being oppressed with the excesses of Sorrow.

He had a generous and noble *Idea* of God in his Mind, and this he found did above all other Considerations preserve his quiet. And indeed that was so well Established in him, that no accidents, how sudden soever, were observed to discompose him: Of which an Eminent Man of that Profession, gave me this instance: In the year 1666, an Opinion did run through the Nation, *that the end of the World would come that year.* This, whether set on by Astrologers, or advanced by those who thought it might have some relation to the *number* of the Beast in the
Reve-

170 *The Life and Death of*
Revelation, or promoted by Men
of ill Designs, to disturb the pub-
lick Peace, had spread might-
tily among the people; and *Judge*
Hale going that year the
Western Circuit, it happened, that
as he was on the *Bench* at the
Assises, a most terrible Storm fell
out very unexpectedly, accompa-
nied with such flashes of Light-
ning, and claps of Thunder, that
the like will hardly fall out in
an Age; upon which a whisper
or a rumour run through the
Crowd, *that now was the World*
to end, and the day of Judgment to
begin, and at this there followed a
general Consternation in the
whole Assembly, and all Men
forgot the Business they were
met about, and betook them-
selves to their Prayers: This
added to the horror raised by
the

Sir Matthew Hale. 171

the Storm looked very dismally ; in so much that my Author , a Man of no ordinary Resolution, and firmness of mind, confessed it made a great Impression on himself. But he told me, that he did observe the Judge was not a whit affected, and was going on with the Business of the Court in his ordinary manner ; from which he made this conclusion , that his thoughts were so well fixed, that he believed if the World had been really to end, it would have given him no considerable disturbance.

But I shall now conclude all that I shall say concerning him, with what one of the greatest Men of the Profession of the Law , sent me as an abstract of the Character he had made of him, upon long observation, and much converse with him : It
was

172 *The Life and Death of*

was sent me, that from thence with the other Materials, I might make such a Representation of him to the World, as he indeed deserved, but I resolved not to shred it out in parcels, but to set it down entirely as it was sent me, hoping that as the Reader will be much delighted with it, so the Noble person that sent it, will not be offended with me for keeping it entire, and setting it in the best light I could; It begins abruptly, being designed to supply the defects of others, from whom I had dearlier and more copious Informations.

He would never be brought to discourse of publick Matters in private Conversation, but in questions of Law, when any young Lawyer
put

Sir Matthew Hale. 173

put a Case to him he was very communicative, especially while he was at the Bar: But when he came to the Bench, he grew more reserv'd, and would never suffer his Opinion in any case to be known, till he was obliged to declare it Judicially; And he concealed his Opinion in great Cases so carefully, that the rest of the Judges in the same Court could never perceive it: His reason was, because every Judge ought to give Sentence according to his own Perswasion and Conscience, and not to be sway'd by any respect or deference to another Mans Opinion: And by this means it hath happened some times, that when all the Barons of the Exchequer had delivered their Opinions, and agreed in their Reasons and Arguments; yet he coming to speak last, and differing in Judgment from them, hath exprest
him-

174 *The Life and Death of*
himself with so much Weight and Solidity, that the Barons have immediately retracted their Votes and concurr'd with him. He hath sat as a Judge in all the Courts of Law, and in two of them as Chief, but still where-ever he sat, all Business of consequence followed him, and no Man was content to sit down by the Judgment of any other Court, till the Case were brought before him, to see whether he were of the same mind; And his Opinion being once known, Men did readily acquiesce in it; and it was very rarely seen, that any Man attempted to bring it about again, and he that did so, did it upon great disadvantages, and was always lookt upon as a very contentious Person; So that what Cicero says of Brutus, did very often happen to him, *Etiam quos contra Statuit Equos placatosque Dimisit.*

Nor

Sir Matthew Hale. 175

Nor did men reverence his Judgment and Opinion in Courts of Law only: But his Authority was as great in Courts of Equity, and the same respect and submission was paid to him there too; And this appeared not only in his own Court of Equity in the Exchequer Chamber, but in the Chancery too, for thither he was often called to advise and assist the Lord Chancellor, or Lord Keeper for the time being; and if the Cause were of difficult Examination, or intricate and entangled with variety of Settlements, no man ever shewed a more clear and discerning Judgment: If it were of great Value, and great Persons interested in it, no man ever shewed greater Courage and Integrity in laying aside all respect of Persons: When he came to deliver his Opinion, he always put his Discourse into such a method, that

one

176 *The Life and Death of*
one part of it gave light to the other,
and where the proceedings of Chan-
cery might prove Inconvenient to the
Subject, he never spared to observe
and reprove them: And from his
Observations and Discourses, the
Chancery hath taken occasion to Esta-
blish many of those Rules by which
it Governs it self at this day.

He did look upon Equity as a
part of the Common-Law, and one of
the Grounds of it; and therefore as
near as he could, he did always re-
duce it to certain Rules and Prin-
ciples, that men might Study it as
a Science, and not think the Admi-
nistration of it had any thing arbi-
trary in it. Thus eminent was this
man in every Station, and into what
Court soever he was call'd, he quick-
ly made it appear, that he deserved
the cheif Seat there.

As great a Lawyer as he was,
be

Sir Matthew Hale. 177

he would never suffer the strictness of Law to prevail against Conscience, as great a Chancellor as he was, he would make use of all the Niceties and Subtilties in Law, when it tended to support Right and Equity. But nothing was more admirable in him, than his Patience: He did not affect the Reputation of Quickness and dispatch, by a hasty and Captious hearing of the Councell: He would bear with the meanest, and gave every man his full Scope, thinking it much better to lose Time than Patience: In summing up of an Evidence to a Jury, he would always require the Barre to interrupt him if he did mistake, and to put him in mind of it, if he did forget the least Circumstance; some Judges have been disturbed at this as a Rudeness, which he always looked upon as a Service and Respect done to him.

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His

178 *The Life and Death of*

His whole Life was nothing else but a continual course of Labour and Industry, and when he could borrow any time from the publick Service, it was wholly employed either in Philosophical or Divine Meditations, and even that was a publick Service too as it hath proved; For they have occasioned his Writing of such Treatises, as are become the Choicest entertainment of wise and good Men, and the World hath reason to wish that more of them were Printed: He that considers the active part of his Life, and with what unwearied Diligence and Application of Mind, he dispatched all Mens Business which came under his Care, will wonder how he could find any time for Contemplation: He that considers again the various Studies he past through, and the many Collections and Observations he hath made, may as justly wonder

Sir Matthew Hale. 179

wonder how he could find any time for Action: But no Man can wonder at the exemplary Piety and Innocence of such a Life so spent as this was, wherein as he was careful to avoid every idle word, so 'tis manifest he never spent an idle day. They who come far short of this Great Man, will be apt enough to think that this is a Panegyrick, which indeed is a History, and but a little part of that History which was with great Truth to be related of him: Men who despair of attaining such perfection, are not willing to believe that any Man else did ever arrive at such a Height.

He was the greatest Lawyer of the Age, and might have had what Practice he pleased, but though he did most Conscientiously affect the labours of his Profession, yet at the same time, he despised the Gain of

180 *The Life and Death of*
it, and of those profits which he
would allow himself to receive, he
always set apart a tenth Penny for
the Poor, which he ever dispensed
with that secrecy, that they who
were relieved, seldom or never knew
their Benefactor: He took more pains
to avoid the Honours and Preferments
of the Gown, than others do to com-
pass them. His Modesty was be-
yond all Example, for where some
Men who never attained to half his
Knowledge, have been puffed up with
a high conceit of themselves, and
have affected all occasions of raising
their own Esteem by depreciating o-
ther Men; He on the contrary was
the most obliging Man that ever
Practised: If a young Gentleman
happened to be retain'd to argue a
point in Law, where he was on the
contrary side, he would very often
mend the Objections when he came to
repeat

Sir Matthew Hale. 181

repeat them, and always Commend the Gentleman if there were room for it, and one good word of his was of more advantage to a young Man, than all the favour of the Court could be.

Having thus far pursued his History and Character, in the publick and Exemplary parts of his Life, without interrupting the thread of the Relation, with what was private and Domestick, I shall conclude with a short account of these.

He was twice Married, his first Wife was *Anne* Daughter of Sir *Henry Moore*, of *Faly* in *Berkshire*, Grandchild to Sir *Francis Moore*, Serjeant at Law; by her he had Ten Children, the four first Died young, the other six

N 3

lived

182 *The Life and Death of*
lived to be all Married; And he
out lived them all, except his
eldest Daughter, and his youngest
Son, who are yet alive.

His eldest Son *Robert* Married
Frances the Daughter of *Sir Francis Chock*, of *Avington* in *Berkshire*, and they both dying in a
little time one after another left
five Children, two Sons *Matthew*
and *Gabriel*, and three Daugh-
ters, *Anne*, *Mary*, and *Frances*,
and by the *Judges* advice, they
both made him their Executor,
so he took his Grandchildren in-
to his own Care, and among them
he left his Estate.

His second Son *Matthew*,
Married *Anne* the Daughter of
Mr. Matthew Simmonds, of *Hilsley*,
in *Glocestershire*, who dyed soon
after, and left one Son behind
him named *Matthew*.

His

Sir Matthew Hale. 183

His third Son *Thomas*, Married *Rebekah* the Daughter of *Christian Le Brune*, a Dutch Merchant, and Died without Issue.

His fourth Son *Edward*, Married *Mary*, the Daughter of *Edmund Goodyere*, Esq; of *Heythorp*, in *Oxfordshire*, and still lives, he has two Sons, and three Daughters.

His eldest Daughter *Mary*, was Married to *Edward Alderly*, Son of *Edward Alderly*, of *Innishannon*, in the County of *Cork* in *Ireland*, who dying, left her with two Sons, and three Daughters; she is since Married to *Edward Stephens*, Son to *Edward Stephens*, Esq; of *Cherington* in *Glocestershire*. His youngest Daughter *Elizabeth*, was Married to *Edward Webb*, Esq; Barrister at Law,

184 *The Life and Death of*
she Died, leaving two Children,
a Son and a Daughter.

His second Wife was *Anne*, the
Daughter of Mr. *Joseph Bishop*,
of *Faly* in *Berkshire*, by whom
he had no Children; He gives
her a great Character in his Will,
as a most dutiful, faithful, and
loving Wife, and therefore trusted
the breeding of his Grand-Children
to her Care, and left her one
of his Executors, to whom he joyn-
ed Sir *Robert Jenkinson*, and Mr.
Gibbon. So much may suffice of
those descended from him.

In after times, it is not to be
doubted, but it will be reckoned
no small Honour to derive from
him; And this has made me
more particular in reckoning up
his Issue, I shall next give an
account of the Issues of his Mind,
his Books, that are either Prin-
ted,

Sir Matthew Hale. 185

ted, or remain in Manuscript; for the last of these by his Will, he has forbid the Printing of any of them after his Death, except such as he should give order for in his Life: But he seems to have changed his mind afterwards, and to have left it to the descretion of his Executors, which of them might be Printed; for though he does not express that, yet he ordered by a Codicill, that if any Book of his Writing, as well touching the Common Law, as other Subjects; should be Printed; then what should be given for the Consideration of the Copy, should be divided into Ten shares, of which he appointed Seven to go among his Servants, and Three to those who had Copied them out, and were to look after the Impression. The reason, as I have understood

186 *The Life and Death of*
stood it, that made him so unwilling to have any of his Works Printed after his Death, was; That he apprehended in the *Licensing them*, (which was necessary before any Book could be lawfully Printed, by a Law then in force, but since his Death determined) *some things might have been struck out or altered*; which he had observed not without some Indignation, had been done to a part of the *Reports*, of one whom he had much Esteemed.

This in matters of Law, he said, might prove to be of such mischievous Consequence, that he thereupon resolved none of his Writings, should be at the Mercy of Licensers; And therefore because he was not sure, that they should be Published without Expurgations or
In-

Sir Matthew Hale. 187

Interpolations, he *forbid the Printing any of them*; in which he afterwards made some Alteration, at least he gave occasion by his Codicill, to infer that he altered his mind.

This I have the more fully explained, that his last Will may be no way misunderstood, and that his worthy Executors, and his Hopeful Grand-Children, may not conclude themselves to be under an Indispensible obligation, of depriving the publick of his excellent Writings.

A Catalogue of all his Books that are Printed, and are to be Sold by *William Shrowbury* at the Sign of the Bible in *Duke-lane*.

1. **T**He primitive Origination of Mankind, considered and examined according to the light of Nature. Fol.
2. *Contemplations Moral and Divine*, part 1. Octavo.
3. *Contemplations Moral and Divine*, part 2. Octavo.
4. *Difficiles Nugæ*, or Observations touching the *Torricellian Experiment*, and the various solutions of

Sir Matthew Hale. 189

of the same, especially touching the *Weight* and *Elasticity* of the Air. Octavo.

5. An *Essay* touching the *Gravitation*, or *Non-Gravitation* of *fluid Bodies*, and the *Reasons* thereof. Octavo.
6. *Observations* touching the *principles* of *natural Motions*, and especially touching *Rarefaction*, and *Condensation*; together with a *Reply* to certain *Remarks*, touching the *Gravitation* of *Fluids*. Octavo.
7. The *Life* and *Death* of *Pomponius Atticus*, written by his *Contemporary* and *Acquaintance* *Cornelius Nepos*, translated out of his *Fragments*; together with *Observations*, *Political* and *Moral* thereupon. Octavo.

8. *Pleas*

190 *The Life and Death of*

8. *Pleas of the Crown, or a methodical Summary of the principal matters relating to that Subject. Octavo.*

Manuscripts of his not yet Published,

1. **C**Concerning the *secondary Origination of Mankind. Fol.*

2. Concerning *Religion*, 5 Vol. in Fol. viz.

1. *De Deo, Vox Metaphysica,*
pars. 1. & 2.

2. Pars 3. *Vox Naturæ, Providentiæ, Ethicæ, Conscientiæ.*

3. *Liber*

Sir Matthew Hale. 191

3. *Liber sextus, septimus, Octavus.*
4. Pars 9. Concerning the *H. Scriptures*, their *Evidence* and *Authority*.
5. Concerning the *Truth* of the *H. Scripture*, and the *Evidences* thereof.
3. Of Policy in matters of Religion. Fol.
4. *De Anima*, to Mr. B. Fol.
5. *De Anima*, Transactions between him and Mr. B. Fol.
6. *Tentamina, de ortu, natura & immortalitate Animæ.* Fol.
7. *Magnetismus Magneticus*, Fol.
8. *Magnetismus Physicus*, Fol.
9. *Magnetismus Divinus.*
10. *De generatione Animalium & Vegetabilium*, Fol. Lat.
11. Of the Law of Nature, Fol.

192 *The Life and Death of*

12. A Letter of advice to his
Grand-Children. Quarto.

13. *Placita Coronæ*, 7 Vol. Fol.

14. Preparatory Notes concerning
the Right of the Crown, Fol.

15. *Incepta de Juribus Coronæ*, Fol.

16. *De Prerogativa Regis*, Fol.

17. Preparatory Notes touching
Parliamentary proceedings, 2 Vol.
Quarto.

18. Of the Jurisdiction of the
House of Lords, Quarto.

19. Of the Jurisdiction of the Ad-
miralty.

20. Touching Ports and Customs,
Fol.

21. Of the Right of the Sea and
the Armes thereof, and Customs,
Fol.

22. Concerning the advancement
of Trade, Quarto.

23. Of Sheriffs Accounts, Fol.

24. Copies of Evidences, Fol.

25. Mr.

Sir Matthew Hale. 193

- 25. Mr. Seldens Discourses, Octa.
- 16. *Excerpta ex Schedis Seldenianis.*
- 27. Journal of the 18 and 21 Jacobi Regis; Quarto.
- 28. Great Common place Book of Reports or Cases in the Law, in Law French, Fol.

In Bundles.

ON Quod tibi fieri, &c.
Matth. 7. 12.
Touching Punishments, in
relation to the Socinian Con-
troversy.

Policies of the Church of Rome.
Concerning the Laws of England.
Of the amendment of the Laws of
England.

Touching Provision for the Poor.
Upon Mr. Hobbs his Manuscript.
Concerning the time of the aboli-
tion of the Jewish Laws.

O

In

194 *The Life and Death of*
In Quarto.

Q*Uod sit Deus.*
Of the State and Condition
of the Soul and Body
after Death.

Notes concerning matters of Law.

To these I shall add the Catalogue of the Manuscripts, which he left to the Honourable Society of *Lincolns-Inn*, with that part of his Will that concerns them.

ITem, As a testimony of my Honour and Respect to the Society of *Lincolns-Inn*, Where I had the greatest part of my Education; I give and bequeath to that

Sir Matthew Hale. 195

that Honorable Society the
several Manuscript Books,
contained in a Schedule
annexed to my Will: They
are a Treasure worth ha-
ving and keeping, which I
have been near Forty years
in gathering, with very
great Industry and Ex-
pence: My desire is, that
they be kept safe, and all to-
gether, in remembrance of
me; They were fit to be
bound in Leather and
Chained, and kept in Ar-
chives: I desire they may
not be lent out, or disposed
of: Only if I happen here-
after, to have any of my
Posterity of that Society,
that desires to transcribe
any Book, and give very
good caution to restore it

196 *The Life and Death of*
again in a prefixed time;
such as the Benchers of
that Society in Council
shall approve of; then, and
not otherwise, only one
Book at one time may be
lent out to them by the
Society; so that there be
no more but one Book of
those Books abroad out of
the Library at one time.
They are a Treasure that
are not fit for every Mans
View; nor is every Man
capable of making use of
them: Only I would have
nothing of these Books
Printed, but intirely pre-
served together, for the use
of the industrious learned
Members of that Society.

Sir Matthew Hale. 197

A Catalogue of the Books
given by him to Lin-
colns-Inn, according to
the Schedule annexed
to his Will.

Placita de tempore Regis Johan-
nis, 1 vol. sticht.

Placita coram Rege E. 1. two vol.

Placita coram Rege E. 2, one vol.

Placita coram Rege E. 3, three vol.

Placita coram Rege R. 2, one vol.

Placita coram Rege H. 4. H. 5. one
vol.

Placita de Banco, E. 1. ab anno 1, ad
annum 21. one vol.

198 *The Life and Death of*
Transcripts of many Pleas, coram
Rege & de Banco E. 1. one vol.

The Pleas in the Exchequer, stiled
Communia, from 1 E. 3. to 46
E. 3, five vol.

Close Rolls of King John, verbatim,
of the most material things, one
vol.

The principal matters in the Close
and Patent Rolls, of H. 3. tran-
scribed verbatim, from 9 H. 3.
to 56 H. 3. five vol. volume
marked K. L.

The principal matters in the Close
and Patent Rolls, E. 1. with se-
veral Copies and abstracts of Re-
ords, one vol. marked F.

A long Book of abstracts of Re-
ords, by me.

Close

Sir Matthew Hale. 199

Close and Patent Rolls, from 1 to 10 E. 3, and other *Records* of the time of H. 3, one vol. marked W.

Close Rolls of 15 E. 3. with other *Records*, one vol, marked N.

Close Rolls from 17 to 38 E. 3. two vol.

Close and Patent Rolls from 40 E. 3. to 50 E. 3. one vol. marked B.

Close Rolls of E. 2. with other *Records*, one vol. R.

Close and Patent Rolls, and *Charter Rolls* in the time of King John for the Clergy, one vol.

A great Volum of *Records* of several natures, G.

200 *The Life and Death of*
The Leagues of the Kings of
England, tempore E. 1. E. 2. E. 3.
one vol.

A Book of ancient Leagues and mi-
litary provisions, one vol.

The Reports of Iters, of Derby,
Nottingham and Bedford, tran-
scribed, one vol.

Itinera Forest de Pickering & Lan-
easter, transcript ex Originali, one
vol.

An ancient Reading, very large
upon Charta de Foresta, and of
the Forest Laws.

The Transcript of the Iter Foresta
de Dean, 1 vol.

Quo Warranto and Liberties of the
County of Gloucester, with the
Pleas of the Chace of Kingswood,
one vol. *Tran-*

Sir Matthew Hale. 201

Transcript of the Black Book of the Admiralty, Laws of the Army, Impositions and several Honours, one vol.

Records of Patents, Inquisitions, &c. of the County of Leicester, one vol.

Musters and Military provisions of all sorts, extracted from the Records, one vol.

Gervasius Tilburienfis, or the Black Book of the Exchequer, one vol.

The Kings Title to the pre-emption of Tin, a thin vol.

Calender of the Records in the Tower, a small vol.

A Miscellany of divers Records, Orders, and other things of various natures, marked E. 1 vol.

Ano-

202 *The Life and Death of*
Another of the like nature in leather
Cover, 1 vol.

A Book of divers Records and
Things relating to the Chancery,
one vol.

Titles of Honour and Pedigrees, es-
pecially touching Clifford, one
vol.

History of the Marches of Wales
collected by me, 1 vol.

Certain Collections touching Titles
of Honour, one vol.

Copies of several Records touching
Premunire, 1 vol.

Extract of Commissions tempore, H. 7.
H. 8. R. and the proceedings
in the Court Military, between
Ray and Ramsey, one vol.

Peti.

Sir Matthew Hale. 203

Petitions in Parliament tempore, E. 1.

E. 2. E. 3. H. 4. three vol.

Summons of Parliament, from 49

H. 3. to 22 E. 4. in three vol.

The *Parliament Rolls* from the beginning of *E. 1.* to the end of *R. 3.* in 19 Volumes, viz. one of *E. 1.* one of *E. 2.* with the *Ordinations.* two of *E. 3.* three of *R. 2.* two of *H. 4.* two of *H. 5.* four of *H. 6.* three of *E. 4.* one of *R. 3.* all Transcribed at large.

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204 *The Life and Death of*
terbury, and Claymes at the Co-
ronation of R. 2. one vol.

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principally concerning Chro-
nology, three large vol.

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Book of Gloucester-shire and He-
reford-shire, and of some Pipe-
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ords touching Titles of Ho-
nour, one vol.

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Close-Rolls, tempore H. 3. E. 1.
E. 2. E. 3. and some old An-
tiquities of England, one vol.

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Sir Matthew Hale. 205

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Par-*

206 *The Life and Death of*
the Partition of the Lands of Gil,
De Clare, &c.

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R. 1 King John, E. 1. &c.
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Transcribed, in 2 vol.

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tracted out of the Notes of
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Knighthood.

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Sir Matthew Hale. 207

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Canterbury.

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ing proceedings in the Military
Court. one vol.

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of Parliament, out of the Book
Dunelm. and some Records
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vol.

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Office of first Fruits. one vol.
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culations. 1 vol. A

208 *The Life and Death of*
A Book of Divinity.

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marked A. and B.

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THe proceedings of the For-
rests of Windsor, Dean,
and Essex, in Quarto.
one vol.

[*Those that follow, are most of them*
in Velome or Parchment.]

TWO Books of old Statutes,
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other, 2 H. 5. with
the Sums. two vol.

Five last years of E. 2. one vol.

Reports tempore, E. 2. one vol.

The

Sir Matthew Hale. 209

The Year Book of R. 2. and some
others. one vol.

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of Optiques. one vol.

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Fortification.

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vol.

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tles. one vol.

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1 vol.

Bernardi Bratrack Peregrinatio. one
vol.

P

Iter

210 *The Life and Death of*
Iter Cantii and London, and some
Reports, tempore E. 2. one
vol.

Reports, tempore, E. 1. & E. 2.
one vol.

Leiger Book, Abbatia De Bello.

Isidori opera.

Liber altercationis, & Christiana
Philosophia, contra Paganos.

Historia Petri Manducatorii.

Hornii Astronomica.

Historia Ecclesiae Dunelmensis.

Holandi Chymica.

De Alchymia Scriptoribus.

The black-Book of the New-Law,
Collected by me, and di-
gested into alphabetical Titles,
Written with my own hand,
which is the Original Coppy.

MATTHEW HALE.

The

The Conclusion.

THus lived and died Sir *Matthew Hale*, the renowned Lord Chief Justice of *England*: He had one of the *blessings of Virtue* in the highest measure of any of the Age, that does not always follow it, which was, that he was *universally* much valued and admired by Men of *all sides and persuasions*. For as none could hate him but for his *Justice and Virtues*, so the great estimation he was generally in, made, that few durst undertake to defend so ingrateful a Paradox, as any thing said to lessen him would have appeared to be. His Name is scarce ever mentioned since

212 *The Life and Death of*

his Death, without particular accents of singular respect. His opinion in points of Law generally passes as an *uncontroulable authority*, and is often pleaded in all the Courts of Justice: And all that knew him well, do still speak of him as one of the *perfectest patterns* of Religion and Virtue they ever saw.

The Commendations given him by all sorts of people are such, that I can hardly come under the *Censures* of this Age, for any thing I have said concerning him; yet if this Book lives to *after-times*, it will be looked on perhaps as a Picture, drawn more according to *fancy and invention*, than after the Life; if it were not that those who knew him well, establishing its Credit in the *present* Age, will make it pass down

Sir Matthew Hale. 213

down to the *next* with a clearer authority.

I shall pursue his *praise* no further in my own words, but shall add what the present *Lord Chancellor of England* said concerning him, when he delivered the Commission to the *Lord Chief Justice Rainsford*, who succeeded him in that Office, which he began in this manner.

The *Vacancy of the Seat of the Chief Justice of this Court*, and that by a way and means so unusual, as the *Resignation of him*, that lately held it, and this too proceeding from so deplorable a cause, as the infirmity of that Body, which began to forsake the ablest Mind that ever presided here, hath filled the Kingdom with Lamentations, and given the King many and pensive thoughts, how to supply that *Vacancy* again.

214 *The Life and Death of*

And a little after speaking to his Successor, He said, The very Labours of the place, and that weight and fatigue of Business which attends it, are no small discouragements; For what Shoulders may not justly fear that Burthen which made him stoop that went before you? Yet I confess you have a greater discouragement than the meer Burthen of your Place, and that is the unimitable Example of your last Predecessor: *Onerosum est succedere bono Principi*, was the saying of him in the Panegyrick; And you will find it so too that are to succeed such a Chief Justice, of so indefatigable an Industry, so invincible a Patience, so exemplary an Integrity, and so magnanimous a contempt of worldly things, without which no Man can be truly great; and to all this a Man that was so absolute a Master of the Science of
the

Sir Matthew Hale. 215

the Law, and even of the most abstruse and hidden parts of it, that one may truly say of his knowledge in the Law, what St. Austin said of St. Hieroms knowledge in Divinity, *Quod Hieronimus nescivit, nullus mortalium unquam scivit.* And therefore the King would not suffer himself to part with so great a Man, till he had placed upon him all the marks of bounty and esteem, which his retired and weak Condition was capable of.

To this high Character, in which the expressions, as they well become the *Eloquence* of him who pronounced them, so they do agree exactly to the Subject, without the abatements that are often to be made for Rhetorick; I shall add that part of the Lord Chief Justices answer, in which he speaks of his Predecessor.

216 The Life and Death of

— A person in whom his eminent Virtues, and deep Learning, have long managed a contest for the Superiority, which is not decided to this day, nor will it ever be determined I suppose, which shall get the upper hand. A person that has sat in this Court these many Years, of whose actions there I have been an eye and ear witness, that by the greatness of his learning always charmed his Auditors to reverence and attention: A person of whom I think I may boldly say, that as former times cannot shew any Superiour to him, so I am confident succeeding and future time will never shew any equal: These considerations heightened by what I have heard from your Lordship concerning him, made me anxious and doubtful, and put me to a stand, how I should succeed so able, so good, and so great a Man: It doth

Sir Matthew Hale. 217

doth very much trouble me, that I who in comparison of him am but like a Candle lighted in the Sunshine, or like a Glow-worm at mid-day, should succeed so great a Person, that is and will be so eminently famous to all Posterity: and I must ever wear this Motto in my breast to comfort me, and in my actions to excuse me,

*Sequitur ; quamvis non passibus
æquis,*

Thus were Panegyricks made upon him while yet alive, in that same Court of Justice which he had so worthily governed. As he was honoured while he lived, so he was much lamented when he died: And this will still be acknowledged as a just inscription for his Memory,

218 *The Life and Death of*
ry, though his modesty forbid
any such to be put on his Tomb-
stone.

THAT HE WAS ONE OF THE
GREATEST PATTERNS THIS AGE
HAS AFFORDED, WHETHER IN
HIS PRIVATE DEPARTMENT AS
A CHRISTIAN, OR IN HIS PUB-
LICK EMPLOYMENTS, EITHER
AT THE BAR OR ON THE
BENCH.

F I N I S.

